

RECEIVED

SEP 30 2013

FILED

SEP 30 2013

Thuan Huy Ha
#18103-112
Taft Correctional Institution
P.O. Box 7001
Taft, California 93268

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY CLERK

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THUAN HUY HA,
Plaintiff,
v.

U.S. DEPARTMENT OF JUSTICE/
EXECUTIVE OFFICE FOR
U.S. ATTORNEYS,
Defendant.

Case No.: 1:13 CV - 01588 LJO/MJS

COMPLAINT UNDER FREEDOM OF INFORMATION
ACT (FOIA), PURSUANT TO
5 U.S.C. §552(a)(4)(B)

Comes now the Plaintiff, THUAN HUY HA, Pro Se, pursuant to 5 U.S.C. §552(a)(4)(B), respectfully moves this Court for an order U.S. Department of Justice/Executive Office for U.S. Attorneys ("DOJ") release all original billing records the government received from all of the Pharmacy Benefit Management (PBMs) companies including Eckerd, RxAmerica, United Provider Service, Aetna, Caremark, Bluecross, Advance PCS, Blueshield, and all Trial Exhibits 3&8,4,9,1,2,5,6,7 respectively with all PBM companies.

Date

Sept 26, 2013

[Signature]

THUAN HUY HA, Plaintiff

I. STATEMENT OF FACTS

On February 25, and March 9, 2004, FBI Special Agent Vickey Vieley (SA Vieley) presented to the jury Trial Exhibits 3&8,4,9,1,2,5,6,7 (Trial Exhibits 1-9) indicating total paid over \$14 millions by all alleged victims Pharmacy Benefit Management companies included Eckerd, RxAmerica, United Provider Service, Aetna, Caremark, Bluecross, Advance PCS, Blueshield (PBMs), which were created by herself as she testified on direct (REPORTER'S TRANSCRIPT (RT);2/25/04;74-92; 3/9/04;149-162) (APPENDIX A).

On June 6, 2009, Plaintiff filed Freedom of Information Act (FOIA) to request the Ha Pharmacy's original billing records of all PBMs of Trial Exhibits 1-9 SA Vieley created (APPENDIX B).

On June 28, 2010, Department of Justice/Executive Office of U.S. Attorney (DOJ/EOUSA released NO evidence of Ha Pharmacy's original billing records of all PBMs as Plaintiff requested, but affirmed EOUSA's action of releasing the Copy of the computer printouts of Pharmacy NABP #055554, total 40 pages, with no titles, no amount submitted, no claims dates, no total paid,...was proper and accordance with DOJ's regulation (APPENDIX C).

On August 31, 2010, Plaintiff filed §2255 Motion to vacate conviction, claiming the government do not have original billing records of Ha Pharmacy NABP #0570172 indicating total paid over \$14 millions as in Trial Exhibits 1-9 SA Vieley created, that Trial Exhibits 1-9 SA Vieley created are false evidence (APPENDIX D).

On November 5, 2010, the government filed opposition, produced NO evidence of Ha Pharmacy's original billing records, but disclosed Exhibits 67,68,69, 70, which actually is the evidence of Care Pharmacy's original billing records with total paid over \$72 thousands by PBM Advance PCS in hard copy form (APPENDIX E).

II. ARGUMENT

Plaintiff argues that he produced evidence that would warrant a belief by a reasonable person that the alleged Government Impropriety might occurred, and there is an overriding public interest in the disclosure of original billing records of all PBMs of Trial Exhibits 1-9 SA Vieley created, which is supported by the following facts:

1) SA Vieley created her Trial Exhibits 1-9 from the computer diskettes she received from all PBMs by "selecting" certain datafields, "excluding" unwanted data fields, "adding" her own letter "P." (paid) in status columns, her own billing records dates, her own titles, her own total paid over \$14 millions by all PBMs as she testified on direct:

* Exhibit 3 indicates Eckerd's \$1.6 millions

- Q. Is Exhibit 3 a xerox photocopy of the paper record that was sent to you by Mr. Lops?
- A. No, It's not.
- Q. How is this particular version or printout created?
- A. This was printed from my computer printer.
- Q. Did you add anything to this document?
- A. I believe I did add a total amount at the end of the page for claims submitted.
- Q. And in the status column, there is a letter "P." Does that refer to it being paid?
- A. That's -- Yes. That's what I was told.
- Q. What was the total that was calculated?
- A. \$1,601,527.47 (RT;2/25/04;74)(APPENDIX A).

* Exhibit 8 indicates Eckerd's \$148 thousands

- Q. Now, on this printout, in Exhibit 8 --- let me ask you this first: this particular printout, is this a photocopy of the hard copy sent to you by Eckerd?
- A. No, It is not.
- Q. How is this particular printout created?
- A. I created this on my computer.
- Q. Did you select certain data that Eckerd sent to you to include in this printout?
- A. Yes, I did.
- Q. Did you select other data to not include?
- A. Yes.
- Q. Why did you not include all of the data?
- A. It really wasn't important to our investigation, and they become so voluminous that I can't work with the --- spreadsheets get so big, and the writing gets so little that I can't see it.

- Q. Did you add any explanatory information to the document that is Exhibit 8? ...
- A. I added a header on the top.
- Q. When you received the data from Eckerd and got a hard copy, did that hard copy have a date in a similar position to this on it?
- A. I guess. I believe it did.
- Q. It was a different date from this?
- A. Yes, It was. But Eckerd may not have had a date. I can't recall specifically.
- Q. What number is that?
- A. \$148,224.96.
- Q. Here again, did you insert a command -- command the program to add up the figures in that column?
- A. Yes. (RT;2/25/04;81)(APPENDIX A).

* Exhibit 4 indicates RxAmerica's \$316 thousands

- Q. The printout that is Exhibit 4, is that the hard copy that you were sent?
- A. No, It's not.
- Q. How was Exhibit 4 created?
- A. I printed it from my computer database.
- Q. And did you -- was there a reason why you didn't include those particular -- fields?
- A. Just for space, and it was redundancy.
- Q. Was it the similar issue to the one we just talked about before, that is would be too wide to fit on the page?
- A. Yes.
- Q. The amount paid, please.
- A. The amount paid was \$316,778.92. (RT;2/25/04;86)(APPENDIX A)

* Exhibit 9 indicates United Provider Service's \$138 thousands

- Q. So, again, this is not a photocopy of the hard copy you sent; is that right?
- A. No, It is not.
- Q. In this printout, were there some data fields you left out for space purposes?
- A. Yes.
- Q. Was there some data that -- was there some data that United Provider Services sent to you that you did not include in this printout?
- A. That's correct, Yes.
- Q. Why?
- A. Because it just -- there's too many fields that I can't put them all on one page and I don't need them all for my reports.
- Q. On this one, did you add a title at the top?
- A. Yes, I added the header.
- Q. At the end, did you instruct the program to add up the total all?
- A. Yes.
- Q. How much was listed as paid to Care Pharmacy?
- A. Amount paid was \$138,346.47 (RT;2/25/04;89)(APPENDIX A)

* Exhibit 1 indicates Aetna's \$7 millions

- Q. And the printout that is Exhibit 1, did you actually yourself print out this document?
- A. This is a printout from my computer, Yes.
- Q. Did you include all of the data fields that Aetna gave to you in this printout?
- A. No, I omitted several fields just because they were so large.
- Q. And did you do that for the purposes of readability and space?
- A. Yes.
- Q. Do you recall what items you did not include in the printout?
- A. Maybe Rx number, the NDC number, if it looked like a refill. Sometimes it has the county or the actual pharmacy number.
- Q. In general, were the items that you chose not to include ones that were not really necessary to identify the particular prescription and who supposedly got it?
- A. Yes. I tailored the charts for what I needed them for.
- Q. Did you alter or change any of the actual data contained in the record you received?
- A. No, I did not. Sometimes I would add a total at the end. But -- I would change the titles sometimes.
- Q. And in this one, did you add the title at the top of each page?
- A. Yeah, the title on the top, and then the total on the bottom.
- Q. What does it indicate was the total amount paid by Aetna to Ha Pharmacy?
- A. \$7,082,745.55. (RT;3/9/04;149)(APPENDIX A)

* Exhibit 2 indicates Caremark's \$4 millions

- Q. Is this actual printout that's Exhibit 2 a photocopy you made from the hard copy that was sent to you?
- A. No. This is a copy that I printed from my computer.
- Q. Did you print out all of the data that Caremark sent to you?
- A. No, I omitted several fields from this one as well.
- Q. Again, for space purposes?
- A. Yes.
- Q. And was it also because you believed that extra information wasn't necessary to identify the particular prescriptions that were represented here?
- A. Correct.
- Q. Did you add anything to the printout?
- A. The titles.
- Q. On this one, did you also edit or slightly revise the titles of each column to make them somewhat more readable English?
- A. I believe I did.
- Q. What does it say?
- A. \$3,938,587.33 (RT;3/9/04;152)(APPENDIX A)

* Exhibit 5 indicates Bluecross' \$357 thousands

- Q. The printout that is Exhibit 5, was that a photocopy of the hard copy you were given?
- A. No.
- Q. Tell us how you proceed?
- A. I printed it out on my computer
- Q. Did you include all of the data fields presented to you by Bluecross?
- Did you include all of the data fields Bluecross and Wellpoint provided to you on this printout?
- A. No, I believe I omitted several fields.
- Q. Was this for the same reason as it was for the other printouts?
- A. Yes.
- Q. Did you make that decision in the same manner, leaving out items that you felt were not necessary to identify the particular prescriptions - -
- A. Correct.
- Q. - - on this document? Did you, again, add a title and make the headers at the top of the columns somewhat more readable?
- A. Yes.
- Q. And did you insert a command to create a sum total at the end?
- A. I believe I did, Yes.
- Q. Is there a total listed?
- A. Yes, there is: \$357,294.37. (RT;3/9/04;155)(APPENDIX A)

* Exhibit 6 indicate Advance PCS' \$363 thousands

- Q. Here again, is this a photocopy of the printout they sent to you?
- A. No, It's not. I printed this out on my computer.
- Q. And here again, did you only include certain fields for the purposes of readability and size?
- A. Yes.
- Q. Did you here, as with others, just omit items that were not necessary to identify; such as the date, the prescription, the drug, the doctor, the patient?
- A. That's correct.
- Q. On this one, did you again add the title at the top of each page and make column headings somewhat more readable?
- A. Yes.
- Q. Did you add a command at the end to create a total?
- A. Yes.
- Q. Did you also have to do something with the doctors' names?
- A. Yes. I added - - I duplicated the MD DEA number, and then I had to replace them so I could put in the doctors names instead of the numbers.
- Q. Do you see the title of the documents on the screen?
- A. Yes, I do.
- Q. What was the total of the amount paid to Ha Pharmacy by Advance PCS on this spreadsheet?
- A. \$363,881.99. (RT;3/9/04;157)

* Exhibit 7 indicates Blueshield's \$182 thousands

- Q. Is Exhibit 7 a photocopy of the hard copy they sent to you?
A. No. It's a printout from my own computer.
Q. Did you include all of the data that Blueshield sent to you?
A. No, I did not.
Q. Did you exclude certain items, again, for space reasons and readability?
A. Yes, I did.
Q. Did you make that decision using the same rationale that we've gone over already on the other printouts?
A. Yes.
Q. And here did you add anything other than the title and making the header descriptions more readable?
A. I might have added the total.
Q. Let's look at the bottom far-right corner, the column entitled "paid" at the bottom of that, what's the total there in dollars?
A. \$182,685.31 (RT;3/9/04;160)(APPENDIX A)

2) SA Vieley, on cross examination of February 25,2004, testified that she did leave out NABP number (the pharmacy identification) to create her Exhibits:

- Q. Is this an example of one of the ones you left certain fields out?
A. Yes, it is.
Q. Okay. So, if I understand the procedure, you got a hard copy from, in this case it was RxAmerica; right?
A. Correct.
Q. You got a hard copy on paper. You also got a disk; right?
A. Yes.
Q. You printed it out on a disk -- from the disk, and then you said you compared it with the hard copy you got from RxAmerica and they were same; right?
A. Yes.
Q. They wouldn't have been exactly the same because you left some of the fields out on the copy you printed from the disk; is that right?
A. Pertinent information was the same.
Q. I'm sorry?
A. They were the -- the information was contained in the other chart.
Q. What were the fields that you left out?
A. I left out NABP number, NDC number, the member's address, just fields that were not really important to specific checks -- to the specific spreadsheets I was creating. (RT;2/25/04;135)(APPENDIX A)

3) SA Vieley withheld all original billing records of all Trial Exhibits 1-9 she created, which were already available in the hard copy form she received from all PBMs (RT;2/25/04;74,81,86,89; 3/9/04;149,152,155,157,161)(APPENDIX A), from the jury.

4) SA Vieley never presented to the jury any evidence or bank statements indicating Plaintiff possessed \$14 millions as in Trial Exhibits 1-9 she created.

5) The DOJ/EOUSA failed to release original billing records of all PBMs of Trial Exhibits 1-9 SA Vieley created as Plaintiff requested (APPENDIX C).

6) The government failed to disclose original billing records of all PBMs of Trial Exhibits 1-9 SA Vieley created, but produced Exhibits 67,68,69,70 to oppose Plaintiff's \$2255 Motion, which clearly revealed SA Vieley altered the evidence:

The government, first, asserted that,

"A comparison of the PBM data attached to the \$2255 Motion with the trial exhibits shows that the data attached to the \$2255 Motion came from PBM Advance PCS. Claims submitted to Advance PCS were set forth in Trial Exhibit 6" (APPENDIX E,p4,line 23).

According to the government's assertion, "the Ha Pharmacy's original billing records" of all PBMs Plaintiff requested through FOIA, the DOJ/EOUSA released, total 40 pages, with no titles, no amount submitted, no claims dates, no total paid by all PBMs, but NABP #055554 (APPENDIX C), the government called "the PBM data", is data of PBM Advance PCS the government presented to the jury in Trial Exhibit 6.

The government, next, asserted that,

"While it is correct that the PBM data does not show the amount submitted by the pharmacy, the date that those claims were made, or the number of checks sent in payment of the claims, that is irrelevant because the government introduced evidence of those facts at trial in other exhibits. See Exhibit 67, Copy of check from Advance PCS to Care Pharmacy dated 3/9/2001; Exhibit 68, Advance PCS Remittance Advice for claims received by 2/23/2001 (list claims paid by the check displayed in Exhibit 67, including the amount claimed by the pharmacy and time period during which the claims were made); Exhibit 69, Copy of check from Advance PCS to Care Pharmacy dated 4/6/2001; Exhibit 70, Advance PCS Remittance Advice for claims received by 3/23/2001 (list claims paid by the check displayed in Exhibit 69, including the amount claimed by the pharmacy and time period during which the claims were made)" (APPENDIX E,p8,line 14), (APPENDIX F).

Contrary to the government's assertion, the government never presented to the jury Exhibits 67,68,69,70 as to the fact of Exhibits 67,68,69,70 the government produced (APPENDIX F) actually is the original billing records in the hard copy form SA

Vieley received from Advance PCS indicate total paid over \$72 thousands (\$14,077.10 + \$58,040.69) to CARE PHARMACY, while Trial Exhibit 6 SA Vieley created indicates total paid over \$363 thousands (\$363,881.99) to HA PHARMACY as she testified on direct on March 9, 2004:

Q. On this one, did you again add the title at the top of each page and make the column headings somewhat more readable?

A. Yes.

Q. Did you add a command at the end to create a total?

A. Yes.

Q. Do you see the title on the document on the screen?

A. Yes.

Q. What was the total of the amount paid to HA PHARMACY by Advance PCS on this spreadsheet?

A. \$363,881.99 (RT;3/9/04;160) (APPENDIX A)

and also as the government asserted, though produced NO copy of Trial Exhibit 6:

"Although the grand total of these payments is not displayed in the original data, it is easily derivable by merely adding the individual payments shown. SA Vieley did exactly that by adding a sum function to this data in Exhibit 6, which shows a grand total of \$363,881.99 paid to the pharmacy" (APPENDIX E,p8,line 8).

Exhibits 67,68,69,70, which is the original billing records of Advance PCS of Trial Exhibit 6 SA Vieley withheld from the jury, the government produced, clearly revealed that SA Vieley DO NOT have the Ha Pharmacy's original billing records, which contain total paid of \$363,881.99 by Advance PCS as in Trial Exhibit 6 she created. Trial Exhibit 6 SA Vieley created the government presented to the jury is false evidence.

The government, further, asserted that,

"Ha's statement that the PBM data does not contain the total paid to the pharmacy by all of the PBMs, while true, is also irrelevant because a particular PBM would not possess the data of the other PBMs that would be needed to derive such a total amount. Furthermore, the absence of these items from the original PBM data shows that they were not omitted from Exhibit 6 due to any "alteration" by SA Vieley, but rather because the PBM did not include them in its data in the place." (APPENDIX E,p8,line 25).

Contrary to the government's assertion, Exhibits 67,68,69,70 the government produced

which is the original billing records of Advance PCS of Trial Exhibit 6 SA Vieley withheld from the jury, DO include the original titles of "ADVANCE PCS REMITTANCE ADVICE" at the tops, DO include the original total paid of "\$14,077.10; \$58,040.69" at the bottoms,... in its data in the first place (APPENDIX F).

Exhibits 67,68,69,70 the government produced clearly revealed that the government intended to fail to disclose original billing records of all PBMs of Trial Exhibits 1-9 SA Vieley created, which were already available in the hard copy forms SA Vieley received from all PBMs.

The government, finally, asserted that,

"Ha states that the pharmacy number included in the original PBM data, 055554, is different from Ha Pharmacy's number (0570172) and, as a result, he claims that the PBM data is not a record of payment to Ha Pharmacy. §2255 Motion at 6. This assertion, while true, is disingenuous and misleading because (1) Ha was convicted of fraud based on claims paid to both Ha Pharmacy and Care Pharmacy; (2) it was Care Pharmacy, not Ha Pharmacy, that was enrolled with Advance PCS; (3) the payments from Advance PCS went to Care Pharmacy, not Ha Pharmacy; (4) the pharmacy number to which Ha refers, 055554, is the number for Care Pharmacy." (APPENDIX E,p9,line 4), (APPENDIX G).

Contrary to the government's assertion, SA Vieley never presented to the jury the original billing records of both Ha Pharmacy and Care Pharmacy, which were already available in the hard copy forms, she received from all PBMs. Exhibits 189 and 192 (Membership3Enrollment3Forms) the government produced (APPENDIX G) clearly indicate the government do not have any record of Plaintiff THUAN HUYNH involving Care Pharmacy NABP #055554. The government failed to produce any evidence indicating Plaintiff possessed over \$14 millions by all PBMs as in Trial Exhibits 1-9 SA Vieley created. The jury's verdict against Plaintiff was totally rest on Trial Exhibits 1-9 SA Vieley created, not on original billing records of both Ha Pharmacy and Care Pharmacy, to which SA Vieley withheld from the jury.

The government, finally further, asserted that,

"Finally, Ha presents no evidence that SA Vieley "altered" the PBM data. In the excerpts of testimony cited in the \$2255 Motion, SA Vieley stated that she did not alter or change any of the actual PBM data and explained that the modifications made to that data in the trial exhibits consisted merely of selecting which categories of data to include in exhibits, summing individual items to derive totals, replacing identify numbers with names in order to make the reports that she generated clearer and easier to read and understand, and adding clarifying headings and labels. She repeatedly testified that she did not alter the underlying data and that she confirmed that the printouts that she generated accurately reflected the data provided by the PBMs." (APPENDIX E, p9, line 17).

Contrary to the government's assertion, while the government intentionally failed to disclose original billing records of all PBMs of Trial Exhibits 1-9 SA Vieley created, which were already available in the hard copy forms SA Vieley received from all PBMs, to prove SA Vieley did not alter the evidence, Exhibits 67,68,69, 70 the government produced, which is the original billing records of Advance PCS of Care Pharmacy SA Vieley withheld from the jury, clearly revealed that SA Vieley did alter the evidence of Care Pharmacy with Advance PCS' \$72 thousands to become the evidence of Ha Pharmacy with Advance PCS' \$363 thousands as in Trial Exhibit 6 she created.

7) Exhibits 67,68,69,70 the government produced also clearly revealed that the DOJ/EOUSA intentionally failed to release the original billing records of all PBMs of Trial Exhibits 1-9 SA Vieley created as Plaintiff requested through FOIA by released "the PBM data", total 40 pages, with no titles, no amount submitted, no claims dates, no total paid....

Plaintiff contends that the disclosure of the original billing records of all PBMs to him, is in the overriding public interest because prosecutorial misconduct may have occurred and if it did, Plaintiff THUAN HUY HA may have been wrongfully convicted as a result of altering the original billing records of all

PBMs, which was supported by SA Vieley and Prosecuting Attorney Lawrence Kole committing perjury and fraud upon the trial court, related to false evidence Trial Exhibits 1-9 SA Vieley created from original billing records of all PBMs she withheld from the jury. Therefore, it is reasonable to conclude that Plaintiff has at a minimum produced evidence that would warrant a belief by a reasonable person that the alleged Government Impropriety might have occurred under the test outlined in National Archives & Records Admin. v. Favish, 541 US 174.

III. CONCLUSION

For the reasons set forth, Plaintiff respectfully requests this Court issue an order, that the DOJ/EOUSA release all records Plaintiff requested including original billing records of all PBMs, and all Trial Exhibits 1-9 SA Vieley created, because there is a public interest in the alleged Government Impropriety, related to Fourth Amendment violation.

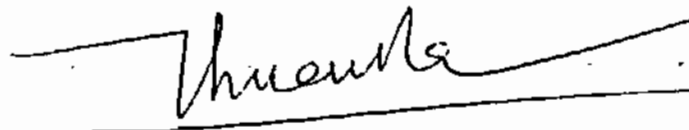
CERTIFICATE OF SERVICE

Plaintiff, hereby, certify that the copy of this document was served by mail to:

U.S. District Court
Eastern District of California
Office of The Clerk
2500 Tulare St. R 1-505
Fresno, CA 93721-1318-2201

Date Served

Sept 26, 2013



Thuan Huy Ha, Plaintiff

APPENDIX A

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE ALICEMARIE H. STOTLER, JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
 PLAINTIFF,)
)
 VS.) NO. SA CR03-0029(A)-AHS
)
 THUAN HUY HA;)
 MY-HUONG THI HOANG,)
) TRIAL DAY TWO
 DEFENDANTS.)

REPORTER'S TRANSCRIPT OF TRIAL PROCEEDINGS

SANTA ANA, CALIFORNIA

WEDNESDAY, FEBRUARY 25, 2004

8:56 A.M.

**CERTIFIED
COPY**

THERESA A. LANZA, RPR, CSR
OFFICIAL COURT REPORTER
411 W. 4TH STREET
SANTA ANA, CALIFORNIA 92701
714) 541-8492

1 Q WHAT IS IT?

2 A THIS IS A CLAIMS DATA CHART THAT I RECEIVED FROM ECKERD
3 PHARMACY, OR ECKERD HEALTH SYSTEMS.

4 Q DOES IT RELATE TO A PARTICULAR TIME PERIOD?

5 A YES. THE CLAIMS ARE FROM NOVEMBER 1, 1997, THROUGH MAY 31 11:08
6 OF 2000.

7 Q WHO DID YOU RECEIVE THIS DATA FROM?

8 A I RECEIVED THIS FROM MIKE LOPS.

9 Q WAS THAT A GENTLEMAN WHO TESTIFIED HERE YESTERDAY?

10 A YES, IT WAS. 11:09

11 Q IN WHAT FORMAT DID YOU RECEIVE IT?

12 A I RECEIVED A PAPER COPY, AND I ALSO RECEIVED INFORMATION
13 ON A DISKETTE IN EXCEL FORMAT.

14 Q IS EXHIBIT 3 A XEROX PHOTOCOPY OF THE PAPER RECORD THAT
15 WAS SENT TO YOU BY MR. LOPS? 11:09

16 A NO, IT'S NOT.

17 Q HOW IS THIS PARTICULAR VERSION OR PRINTOUT CREATED?

18 A THIS WAS PRINTED FROM MY COMPUTER PRINTER.

19 Q WAS IT PRINTED FROM THE DATA THAT YOU WERE PROVIDED BY
20 MR. LOPS? 11:09

21 A YES.

22 Q DID YOU PERSONALLY DO THAT?

23 A YES, I DID.

24 Q WHEN YOU CREATED THIS PRINTOUT, DID YOU INCLUDE ALL OF THE
25 DATA FIELDS THAT ECKERD'S SENT IN THIS DOCUMENT? 11:10

1 A I BELIEVE, IN THIS DOCUMENT, IT HAS ALL OF THE DATA
2 FIELDS.

3 Q DID YOU CHANGE ANY OF THE ACTUAL DATA IN THE DOCUMENT?

4 A NO, I DID NOT.

5 Q DID YOU ADD ANYTHING TO THIS DOCUMENT?

11:10

6 A I BELIEVE I DID ADD A TOTAL AMOUNT AT THE END OF THE PAGE,
7 FOR THE CLAIMS SUBMITTED.

8 Q LET ME DIRECT YOUR ATTENTION TO THE LAST PAGE, PAGE 3-35.

9 MR. KOLE: AND YOUR HONOR, I'D REQUEST PERMISSION TO
10 PUBLISH THAT PAGE.

11:10

11 ~~THE COURT: ONCE AGAIN, WHAT PAGE WAS IT?~~

12 MR. KOLE: 3-35.

13 THE COURT: GO AHEAD.

14 MR. KOLE: THANK YOU.

15 BY MR. KOLE:

11:10

16 Q AGENT VIELEY, DO YOU SEE PAGE 3-35 ON THE PROJECTOR THERE?

17 A YES, I DO.

18 Q I'M GOING TO ZOOM IN NOW ON THE UPPER RIGHT-HAND CORNER.
19 CAN YOU SEE THAT?

20 A YES, I DO.

11:11

21 Q DO YOU SEE A COLUMN ENTITLED "TOTAL AMOUNT DUE"?

22 A YES.

23 Q AT THE BOTTOM OF THAT COLUMN, IS THERE A NUMBER THAT
24 BEGINS WITH A 1 AND A 6?

25 A YES.

11:11

1 Q DO YOU SEE WHERE I'M POINTING AT WITH MY PEN?

2 A YES, I DO.

3 Q IS THAT THE TOTAL YOU WERE JUST REFERRING TO?

4 A YES, I AM.

5 Q IS THAT ONE NUMBER THERE AT THE VERY END, IS THAT THE ONLY 11:
6 THING YOU ADDED TO THIS?

7 A YES.

8 Q IS EVERYTHING ELSE IN THIS DOCUMENT, ABOVE IT, THE SAME AS
9 THE DATA PROVIDED TO YOU BY ECKERD?

10 A YES, IT IS. 11:11

11 Q ~~DID YOU USE MICROSOFT EXCEL TO CREATE THIS PRINTOUT?~~

12 A YES, I DID.

13 Q ARE YOU FAMILIAR WITH THAT PROGRAM?

14 A YES, I AM.

15 Q HOW DID YOU BECOME FAMILIAR WITH IT? 11:11

16 A I TOOK SEVERAL CLASSES IN -- EXCEL CLASSES.

17 Q DO YOU USE IT IN YOUR JOB?

18 A YES. I USE IT QUITE OFTEN.

19 Q ON A REGULAR BASIS?

20 A ON A REGULAR BASIS, YES. 11:12

21 Q IS IT COMMON FOR YOU, IN YOUR INVESTIGATION, TO DEAL WITH
22 FINANCIAL MATTERS, NUMBERS?

23 A YES, IT IS.

24 Q AND DO YOU USE EXCEL TO HELP ORGANIZE THAT INFORMATION?

25 A YES, I DO. 11:12

1 Q IN YOUR EXPERIENCE, DOES THE EXCEL PROGRAM YOU WORK WITH
2 DISPLAY AND ORGANIZE DATA IN A RELIABLE MANNER?

3 A YES.

4 Q IN YOUR EXPERIENCE, HAS IT MADE ACCURATE CALCULATIONS?

5 A YES.

11:12

6 Q AT SOME POINT, DID YOU MAKE A COMPARISON BETWEEN THE
7 ACTUAL PRINTOUT, THAT IS EXHIBIT 3, AND THE COMPUTER-READABLE
8 DATA THAT ECKERD GAVE TO YOU?

9 A YES, I DID.

10 Q WHAT DID YOU FIND?

11:12

11 ~~A I FOUND THAT THE NUMBERS MATCHED, TOTAL DOLLAR AMOUNTS~~
12 MATCHED.

13 Q AND THE DATA APPEARED TO BE THE SAME?

14 A APPEARED TO BE THE SAME, YES.

15 Q TAKE A LOOK AT THE FIRST PAGE, PLEASE, 3-1.

11:12

16 A YES.

17 MR. KOLE: YOUR HONOR, MAY I PUBLISH 3-1?

18 THE COURT: YES.

19 BY MR. KOLE:

20 Q AGENT VIELEY, FIRST I'M PLACING IT ON THE PROJECTOR FOR A
21 WIDE VIEW SO WE CAN SEE THAT IT IS 3-1.

11:13

22 DO YOU SEE THAT?

23 A YES, I DO.

24 Q NOW, I'M GOING TO ZOOM IN ON THE UPPER LEFT-HAND CORNER SO
25 WE CAN READ IT.

11:13

1 IN THE UPPER LEFT-HAND CORNER, DOES IT INDICATE SOME
2 INFORMATION ABOUT WHAT THIS DOCUMENT IS AND WHAT IS CONTAINED
3 IN IT?

4 A YES.

5 Q WHAT DOES IT SAY?

11:13

6 A IT SAYS, "REPORT, HA PHARMACYS CLAIMS ITS CLIENTS ALL.
7 TIME: NOVEMBER 1, 1997, THROUGH MAY 31 OF 2000, FOR N.A.B.P.
8 NUMBER 0570172."

9 Q AND DID YOU EVER HAVE OCCASION TO LEARN WHAT -- TO WHAT
10 ENTITY THAT N.A.B.P. NUMBER WAS ASSIGNED?

11:14

11 A IT WAS ASSIGNED TO HA PHARMACY.

12 Q WHAT DATA FIELDS OR DATA ELEMENTS ARE CONTAINED IN THIS
13 DATA?

14 A IT HAS NUMEROUS. IT HAS THE RX NUMBER.

15 Q ARE YOU MOVING NOW FROM THE -- FIRST COLON FROM THE LEFT,
16 ACROSS THE PAGE TO THE RIGHT?

11:14

17 A YES.

18 Q THANK YOU.

19 GO AHEAD.

20 A RX NUMBER, REFILL, FILL DATE, SUBMIT DATE, MEMBER ID,
21 MEMBER LAST NAME, MEMBER FIRST NAME, ADDRESS ONE, CITY, STATE,
22 ZIP, D.E.A. NUMBER, M.D. LAST NAME, M.D. FIRST NAME, N.D.C.
23 NUMBER, LABEL NAME.

11:14

24 Q THAT ONE, LABEL NAME, DO YOU KNOW WHAT THAT REFERRED TO?

25 A THAT WOULD BE THE MEDICATION OR DRUG.

11:15

1 Q GO AHEAD, PLEASE.

2 A QUANTITY, DAY SUPPLY, CHECK NUMBER, POST DATE, TOTAL
3 AMOUNT DUE, AND THE STATUS OF THE CHECK, STATUS.

4 Q AND IN THE STATUS COLUMN, THERE IS A LETTER "P."

5 DOES THAT REFER TO IT BEING PAID?

11:13

6 A THAT'S -- YES. THAT'S WHAT I WAS TOLD.

7 Q TAKE A LOOK AGAIN AT THE LAST PAGE. THE ONE I ASKED YOU
8 ABOUT FIRST.

9 PLEASE DIRECT YOUR ATTENTION TO THE LOWER RIGHT-HAND
10 CORNER OF THE DATA IN THE TOTAL AMOUNT DUE COLUMN.

11:15

11 A YES.

12 Q THAT TOTAL AT THE VERY BOTTOM YOU REFERRED TO, THAT WAS
13 CALCULATED?

14 A YES.

15 Q WHAT WAS THE TOTAL THAT WAS CALCULATED?

11:15

16 A \$1,601,527.47.

17 Q IS THAT A DOLLAR AMOUNT?

18 A YES, IT IS.

19 Q NOW, DID YOU RECEIVE DATA LIKE THIS FROM OTHER PHARMACY
20 BENEFIT MANAGEMENT FIRMS AS WELL?

11:16

21 A NUMEROUS.

22 Q IN REGARD TO HA PHARMACY AND CARE PHARMACY?

23 A YES, I DID.

24 Q DID SOME OF THOSE ENTITIES PROVIDE YOU WITH DATA THAT
25 ALREADY INCLUDED A GRAND TOTAL AT THE END LIKE THIS?

11:16

1 A YES, IT DID.

2 Q DID SOME NOT INCLUDE THAT?

3 A CORRECT.

4 Q IF THE ENTITY GAVE YOU DATA THAT DID NOT HAVE A SUM AT THE
5 END, WHAT DID YOU DO?

11:16

6 A I WOULD JUST SUM THE TOTAL JUST TO FIND OUT WHAT DOLLAR
7 WAS PAID.

8 Q AND YOU SAY YOU WOULD DO IT. HOW DID YOU ACTUALLY DO
9 THAT?

10 A ON THE EXCEL PROGRAM, THERE'S AN AUTO SUM.

11:16

11 Q DO YOU INSTRUCT THE PROGRAM AS TO WHICH COLUMN OR WHICH
12 FIELD TO ADD UP?

13 A YES.

14 Q DOES IT ADD THEM UP AUTOMATICALLY?

15 A AUTOMATICALLY, YES.

11:17

16 Q PLEASE TAKE A LOOK AT EXHIBIT 8.

17 A OKAY.

18 Q WHAT IS THIS DOCUMENT?

19 A THIS SAYS, "CLAIMS SUBMITTED BY CARE PHARMACY TO ECKERD."

20 Q DO YOU RECOGNIZE THIS DOCUMENT?

11:17

21 A THIS IS A DOCUMENT THAT I PREPARED.

22 Q DOES THIS DOCUMENT CONTAIN DATA THAT YOU RECEIVED FROM
23 SOMEONE?

24 A YES. I RECEIVED THIS INFORMATION FROM MICHAEL LOPS AT
25 ECKERD HEALTH SYSTEMS.

11:17

1 Q WAS THIS ALSO SENT TO YOU IN BOTH PAPER HARD COPY AND
2 ELECTRONIC FORMAT?

3 A YES, IT WAS.

4 Q NOW, ON THIS PRINTOUT, IN EXHIBIT 8 -- LET ME ASK YOU THIS
5 FIRST: THIS PARTICULAR PRINTOUT, IS THIS A PHOTOCOPY OF THE
6 HARD COPY SENT TO YOU BY ECKERD?

11:15

7 A NO, IT IS NOT.

8 Q HOW IS THIS PARTICULAR PRINTOUT CREATED?

9 A I CREATED THIS ON MY COMPUTER.

10 Q IS EXHIBIT 8 AN ALL-INCLUSIVE PRINTOUT OF THE DATA THAT

11:16

11 ECKERD SENT YOU, OR IS IT A SUMMARY OF SOME OF THE DATA?

12 A IT'S A SUMMARY, I BELIEVE.

13 Q CAN YOU EXPLAIN WHAT IT SUMMARIZES.

14 A IT SUMMARIZES DATE OF SERVICE, N.A.B.P. NUMBER, THE
15 PATIENT'S LAST -- LAST NAME OF THE PATIENT, FIRST NAME, THE
16 PATIENT'S ID NUMBER, PRESCRIBER'S D.E.A. NUMBER, PRESCRIBER'S
17 NAME, THE DRUG, QUANTITY, APPROVED FILLED, INGREDIENT COSTS,
18 AMOUNT PAID, PAYMENT CHECK, AND PAYMENT DATE.

11:16

19 MR. KOLE: YOUR HONOR, MAY I PUBLISH THE FIRST PAGE,

20 8-1?

11:16

21 THE COURT: YES.

22 BY MR. KOLE:

23 Q AGENT VIELEY, DO YOU SEE THAT PAGE BEING DISPLAYED ON THE
24 SCREEN?

25 A YES, I DO.

11:16

1 Q I'M ZOOMING IN ON THE UPPER PART WITH THE FIELDS THAT YOU
2 WERE JUST REFERRING TO.

3 DID YOU SELECT CERTAIN DATA THAT ECKERD SENT TO YOU
4 TO INCLUDE IN THIS PRINTOUT?

5 A YES, I DID. 11:19

6 Q DID YOU SELECT OTHER DATA TO NOT INCLUDE?

7 A YES.

8 Q WHY DID YOU NOT INCLUDE ALL OF THE DATA?

9 A IT REALLY WASN'T IMPORTANT TO OUR INVESTIGATION, AND THEY
10 BECAME SO VOLUMINOUS THAT I CAN'T WORK WITH THE -- SPREADSHEETS 11:19

11 GET SO BIG, AND THE WRITING GETS SO LITTLE THAT I CAN'T SEE IT.

12 Q DID YOU FIND IT -- SEEMED TO BE DIFFICULT TO TRY TO HAVE
13 ALL OF THE INFORMATION, ALL OF THE COLUMNS ON THE SINGLE PAGE?

14 A YES.

15 Q WHEN YOU PREPARED THAT PRINTOUT, THOUGH, DID YOU CHANGE
16 ANY OF THE ACTUAL DATA IN THE SPREADSHEET? 11:19

17 A NO, I DID NOT.

18 Q DID YOU AGAIN USE MICROSOFT EXCEL FOR THIS ONE?

19 A YES, I DID.

20 Q DID YOU ADD ANY EXPLANATORY INFORMATION TO THE DOCUMENT
21 THAT IS EXHIBIT 8? 11:20

22 A I ADDED A HEADER ON THE TOP.

23 Q AND IF YOU LOOK ON THE SCREEN, I'VE ZOOMED ON THE
24 UPPER-MIDDLE PORTION OF EXHIBIT 8, FIRST PAGE OF EXHIBIT 8,
25 8-1, AND I'M POINTING TO IT WITH MY PEN. IS THAT THE TITLE AT 11:20

1 THE TOP, SOMETHING YOU ADDED?

2 A YES. "CLAIMS SUBMITTED BY CARE PHARMACY TO ECKERD."

3 Q WHY DID YOU PUT THAT IN?

4 A BECAUSE THAT'S WHAT THIS REPORT CONTAINED.

5 Q WAS IT FOR INFORMATION PURPOSES?

11:20

6 A FOR MY INFORMATION, YES.

7 Q AND PLEASE DIRECT YOUR ATTENTION TO THE LOWER RIGHT-HAND
8 CORNER, WHICH I'M GOING TO SHOW ON THE SCREEN NOW, WHERE IT HAS
9 THE EXHIBIT NUMBER. DO YOU SEE THAT?

10 A YES, I DO.

11:21

11 Q TO THE RIGHT OF THAT, THERE'S ANOTHER NUMBER. WHAT IS
12 THAT?

13 A 2-13-2004.

14 Q WHAT DOES THAT SIGNIFY?

15 A THAT WAS THE DATE THAT I RAN THIS REPORT FROM MY COMPUTER,
16 A COPY OF IT.

11:21

17 Q WAS THAT THE DATE YOU RECEIVED THIS DATA FROM ECKERD?

18 A NO.

19 Q HAD YOU RECEIVED THE DATA SOMETIME EARLIER?

20 A YES, I DID.

11:21

21 Q WHEN YOU RECEIVED THE DATA FROM ECKERD AND GOT A HARD
22 COPY, DID THAT HARD COPY HAVE A DATE IN A SIMILAR POSITION TO
23 THIS ON IT?

24 A I GUESS. I BELIEVE IT DID.

25 Q IT WAS A DIFFERENT DATE FROM THIS?

11:21

1 A YES, IT WAS.

2 BUT ECKERD MAY NOT HAVE HAD A DATE. I CAN'T RECALL
3 SPECIFICALLY.

4 Q AND TAKE A LOOK, PLEASE, AT THE LAST PAGE, WHICH WOULD BE
5 THE 11TH PAGE, 8-11. 11:22

6 MR. KOLE: MAY I PUBLISH THAT PAGE, YOUR HONOR?

7 THE COURT: YES.

8 BY MR. KOLE:

9 Q I'VE PLACED PAGE 8-11 ON THE SCREEN. DO YOU SEE IT ON THE
10 SCREEN, AGENT VIELEY? 11:22

11 A YES, I DO.

12 Q AND I'M NOW GOING TO ZOOM IN ON THE LOWER RIGHT-HAND
13 PORTION.

14 THERE'S SOME BOLD NUMBERS THERE. DO YOU SEE THEM?

15 A YES. 11:22

16 Q WHAT ARE THOSE?

17 A THOSE ARE THE TOTAL AMOUNTS, APPROVED OF, BILLED, AGREED
18 COSTS, AND THE AMOUNT PAID.

19 Q WHICH ONE, RIGHT OR LEFT, IS THE TOTAL AMOUNT PAID?

20 A THE NUMBER TO THE RIGHT. 11:22

21 Q WHAT NUMBER IS THAT?

22 A \$148,224.96.

23 Q HERE AGAIN, DID YOU INSERT A COMMAND -- COMMAND THE
24 PROGRAM TO ADD UP THE FIGURES IN THAT COLUMN?

25 A YES. 11:23

1 Q NOW, EXHIBIT 8, DID YOU MAKE A COMPARISON OF THIS PRINTOUT
2 TO THE ORIGINAL DATA SENT BY ECKERD FOR CARE PHARMACY TO -- DID
3 YOU COMPARE THIS PRINTOUT TO THE ORIGINAL DATA SENT?

4 A YES.

5 Q WHAT DID YOU OBSERVE?

11:23

6 A I OBSERVED THAT THE TOTALS WERE THE SAME.

7 Q AND DID THE DATA APPEAR TO BE THE SAME?

8 A YES. BECAUSE THE TOTALS ADDED UP, SO I FIGURED ALL OF THE
9 FIELDS WERE THERE.

10 Q LET ME JUST ASK YOU ONE OTHER QUESTION, LOOKING AT THAT

11:23

11 SAME PAGE, 8-11, AND I'M ZOOMING ON THE RIGHT -- ON THE COLUMN

12 TO THE RIGHT, NEAR THE RIGHT MARGIN. I'LL ZOOM IN ON THE
13 UPPER-RIGHT CORNER.

14 DO YOU SEE IN THE COLUMN THAT'S SECOND FROM THE RIGHT
15 MOST, WHERE IT SAYS "PAYMENT CHECK NUMBER"?

11:23

16 A YES, I DO.

17 Q WHAT DATA IS IN THAT COLUMN?

18 A THIS IS THE ACTUAL CHECK NUMBER ISSUED TO THE CLAIM CHECK.

19 Q IS IT POSSIBLE, USING THAT, TO TELL WHAT PRESCRIPTIONS
20 ECKERD PAID FOR WITH WHICH PARTICULAR CHECKS?

11:24

21 A YES.

22 Q DOES THIS PRINTOUT CONTAIN SIMILAR DATA TO THE OTHER
23 PRINTOUT AS ECKERD, REGARDING THE TYPE OF PRESCRIPTION, THE
24 DRUG, THE MEMBER'S NAME, THE PRESCRIBING DOCTOR, AND THE PRICE?

25 A EXACTLY.

11:24

1 Q IS EXHIBIT 8 DATA THAT RELATES TO HA PHARMACY OR CARE
2 PHARMACY?

3 A CARE PHARMACY.

4 Q AND WHAT TIME PERIOD IS REFLECTED IN EXHIBIT 8?

5 A BEGINNING AUGUST 21ST OF 2000, AND, I BELIEVE, TO MAY 23RD
6 OF 2001.

11:24

7 Q PLEASE TAKE A LOOK AT EXHIBIT 4.

8 A OKAY.

9 Q DO YOU RECOGNIZE THAT DOCUMENT?

10 A YES. THIS IS CLAIMS SUBMITTED, HA PHARMACY, CLAIMS
11 SUBMITTED TO RXAMERICA.

11:25

12 Q IS THIS A DOCUMENT THAT YOU RECEIVED?

13 A YES, IT IS.

14 Q WHO DID YOU RECEIVE IT FROM?

15 A I RECEIVED IT FROM RXAMERICA, JOE LAPINE.

11:25

16 Q THE GENTLEMAN WHO TESTIFIED BEFORE YOU?

17 A YES.

18 Q IN WHAT FORMAT WAS IT SENT TO YOU?

19 A I RECEIVED A PAPER COPY, AND I ALSO RECEIVED IT IN EXCEL,
20 FLOPPY DISK.

11:25

21 Q THE PRINTOUT THAT IS EXHIBIT 4, IS THAT THE HARD COPY THAT
22 YOU WERE SENT?

23 A NO, IT'S NOT.

24 Q HOW WAS EXHIBIT 4 CREATED?

25 A I PRINTED IT FROM MY COMPUTER DATABASE.

11:26

1 Q USING EXCEL?

2 A EXCEL.

3 Q WHEN YOU PRINTED THIS LIST, THAT IS EXHIBIT 4, DID YOU
4 INCLUDE ALL OF THE DATA FIELDS THAT RXAMERICA PROVIDED, OTHER
5 THAN THE MEMBER'S ADDRESS? 11:26

6 A I BELIEVE I DID.

7 Q AND DID YOU -- WAS THERE A REASON WHY YOU DIDN'T INCLUDE
8 THOSE PARTICULAR FIELDS?

9 A JUST FOR SPACE, AND IT WAS A REDUNDANCY.

10 Q WAS IT THE SIMILAR ISSUE TO THE ONE WE JUST TALKED ABOUT 11:26

11 BEFORE, THAT IT WOULD BE TOO WIDE TO FIT ON THE PAGE?...

12 A YES.

13 Q IS THIS, THEN, A SUMMARY OF DATA THAT WAS PROVIDED TO YOU
14 BY RXAMERICA?

15 A YES, IT IS. 11:26

16 Q DID YOU CHANGE ANY OF THE ACTUAL DATA IN THE DOCUMENT OR
17 IN THE PRINTOUT?

18 A NO, I DID NOT.

19 Q TAKE A LOOK AT THE LOWER RIGHT-HAND CORNER OF THE FIRST
20 PAGE, EXHIBIT 4-1. 11:27

21 A YES.

22 Q IS THERE A DATE THERE?

23 A YES. 2-13-2004.

24 Q WHAT DOES THAT SIGNIFY?

25 A THAT'S THE DATE I PRINTED THIS SHEET. 11:27

FEBRUARY 25, 2004

TRIAL DAY TWO

88

1 Q IS THAT THE DATE YOU RECEIVED THIS INFORMATION FROM
2 RXAMERICA?

3 A NO, IT IS NOT.

4 Q HAD YOU RECEIVED IT SOMETIME BEFORE?

5 A YES, I DID.

11:25

6 Q DID YOU MAKE A COMPARISON BETWEEN EXHIBIT 4, THIS
7 PRINTOUT, AND THE ACTUAL DATA FROM RXAMERICA TO SEE IF IT WAS
8 ACCURATE?

9 A YES, I COMPARED IT.

10 Q WHAT DID YOU DISCOVER?

11:25

11 A FOUND THEY WERE THE SAME.

12 Q AND, AGAIN, DOES EXHIBIT 4 CONTAIN THE SAME TYPES OF
13 INFORMATION WE'VE DISCUSSED WITH EXHIBIT 8; THE MEMBER NAME AND
14 IDENTIFICATION NUMBER, THE DRUG, THE PRESCRIBING DOCTOR, THE
15 PRICE OR COSTS?

11:26

16 A YES, IT DOES.

17 Q WOULD YOU TAKE A LOOK AT THE LAST PAGE, EXHIBIT 4-22.

18 MR. KOLE: MAY I PUBLISH IT, YOUR HONOR?

19 THE COURT: YES.

20 BY MR. KOLE:

11:26

21 Q DO YOU SEE IT ON THE PROJECTOR, AGENT VIELEY?

22 A YES, I DO.

23 Q I'M NOW ZOOMING IN ON THE UPPER RIGHT-HAND PORTION WHERE
24 THERE ARE TWO FIGURES IN BOLD TYPE.

25 DO YOU SEE THOSE?

11:26

FEBRUARY 25, 2004

TRIAL DAY TWO

89

1 A YES, I DO.

2 Q WHAT ARE THOSE?

3 A THIS IS THE AMOUNTS -- THE TOTAL AMOUNTS SUBMITTED AND THE
4 AMOUNT PAID COLUMNS.

5 Q AND IN THE BOTTOM RIGHT-HAND CORNER, IS THAT THE TOTAL
6 AMOUNT PAID BY RXAMERICA TO HA PHARMACY?

11:28

7 A YES, IT IS.

8 Q HOW MUCH DOES IT SHOW THERE?

9 A THE AMOUNT PAID OR AMOUNT SUBMITTED?

10 Q THE AMOUNT PAID, PLEASE.

11:28

11 A THE AMOUNT PAID WAS \$316,778.92..

12 Q TAKE A LOOK NOW AT EXHIBIT 9.

13 A OKAY.

14 Q DO YOU RECOGNIZE THAT DOCUMENT?

15 A YES, I DO.

11:29

16 Q WHAT IS IT?

17 A IT'S CLAIMS SUBMITTED BY CARE PHARMACY TO UNITED PROVIDER
18 SERVICES.

19 Q DID YOU RECEIVE THAT DATA?

20 A YES, I DID.

11:29

21 Q DID YOU RECEIVE IT FROM UNITED PROVIDER SERVICES?

22 A YES, I DID.

23 Q IN WHAT FORM DID YOU RECEIVE IT?

24 A I RECEIVED IT IN THE SAME FORMAT, PAPER COPY, AND ALSO IN
25 EXCEL DATA -- EXCEL DISKETTE.

11:29

1 Q DO WE HAVE THE SAME SITUATION HERE? THIS IS A PRINTOUT
2 YOU ACTUALLY PRINTED FROM THE DATA?

3 A YES, IT IS.

4 Q SO, AGAIN, THIS IS NOT A PHOTOCOPY OF THE HARD COPY YOU
5 SENT; IS THAT RIGHT? 11:30

6 A NO, IT IS NOT.

7 Q IN THIS PRINTOUT, WERE THERE SOME DATA FIELDS YOU LEFT OUT
8 FOR SPACE PURPOSES?

9 A YES.

10 THE COURT: COUNSEL, YOUR QUESTION BEFORE ASKED HER 11:30
11 WHETHER OR NOT THAT WAS CORRECT, AND SHE SAID, "NO, IT IS NOT."
12 COULD YOU CLARIFY, PLEASE, WHAT THE ANSWER IS MEANT TO SAY.

13 MR. KOLE: THANK YOU, YOUR HONOR.

14 BY MR. KOLE:

15 Q WAS THERE SOME DATA THAT -- WAS THERE SOME DATA THAT 11:30
16 UNITED PROVIDER SERVICES SENT TO YOU THAT YOU DID NOT INCLUDE
17 IN THIS PRINTOUT?

18 A THAT'S CORRECT, YES.

19 Q WHY?

20 A BECAUSE IT JUST -- THERE'S TOO MANY FIELDS THAT I CAN'T 11:30
21 PUT THEM ALL ON ONE PAGE AND I DON'T NEED THEM ALL FOR MY
22 REPORTS.

23 Q IS THIS A SUMMARY OF THE DATA PROVIDED TO YOU?

24 A YES, IT IS.

25 Q ON THIS ONE, DID YOU ADD A TITLE AT THE TOP? 11:31

1 A YES, I ADDED THE HEADER.

2 Q AT THE END, DID YOU INSTRUCT THE PROGRAM TO ADD UP THE
3 TOTAL ALL?

4 A YES.

5 Q DID YOU CHANGE ANY OF THE ACTUAL DATA PROVIDED TO YOU? 11:31

6 A NO, I DID NOT.

7 Q AGAIN, AS WITH THE OTHER PRINTOUT, IN THE BOTTOM
8 RIGHT-HAND CORNER, THERE'S A DATE. DO YOU SEE THAT?

9 A JUNE 13, 2004.

10 Q WHAT DOES THAT SIGNIFY? 11:31

11 A THAT'S THE DATE I MADE A COPY OF THIS REPORT FROM MY
12 COMPUTER.

13 Q HAD YOU RECEIVED THE DATA PREVIOUSLY?

14 A YES, I HAVE.

15 Q DID YOU COMPARE THIS PRINTOUT, EXHIBIT 9, TO THE ORIGINAL 11:31
16 DATA FROM U.P.S., TO SEE WHETHER IT WAS AN ACCURATE PRINTOUT?

17 A YES, I DID.

18 Q WHAT DID YOU DETERMINE?

19 A IT WAS AN -- THE TOTAL AMOUNTS WERE THE SAME.

20 Q TAKE A LOOK AT THE LAST PAGE, 9-8. 11:31

21 A YES.

22 MR. KOLE: MAY I PUBLISH THAT PAGE, YOUR HONOR?

23 THE COURT: GO AHEAD.

24 BY MR. KOLE:

25 Q FIRST, I'M GOING TO ZOOM OUT AS I PLACE THAT PAGE ON THE 11:32

1 PROJECTOR SO YOU CAN SEE THE EXHIBIT NO. 9 AND PAGE 8 AT THE
2 BOTTOM.

3 AND NOW I'M ZOOMING IN ON THE UPPER RIGHT-HAND
4 PORTION.

5 HERE, DO YOU SEE SOME BOLD TEXT DEPICTING -- SOME
6 BOLD TEXT AT THE BOTTOM OF THE AMOUNT PAID COLUMN?

11:32

7 A YES, I DO.

8 Q WHAT IS THAT?

9 A THIS IS THE TOTAL AMOUNT \$138,346.47.

10 Q WHAT DOES THAT REPRESENT?

11:32

11 A ~~IT REPRESENTS THE TOTAL AMOUNT OF THE CLAIMS SUBMITTED BY~~
12 CARE PHARMACY TO UNITED PROVIDER SERVICES.

13 Q WHICH NUMBER IS THE TOTAL CLAIMS SUBMITTED?

14 A THE -- THE AMOUNT BILLED.

15 Q AND IS THERE A TOTAL OF THE AMOUNT PAID TO CARE PHARMACY
16 SET FORTH?

11:33

17 A YES.

18 Q HOW MUCH WAS LISTED AS PAID TO CARE PHARMACY?

19 A AMOUNT PAID WAS \$138,346.47.

20 Q DOES THIS PRINTOUT CONTAIN SIMILAR TYPES OF INFORMATION TO
21 WHAT WE'VE DISCUSSED ON THE OTHERS; THE MEMBER, PRESCRIBING
22 DOCTOR, DRUG, DATE, AMOUNTS PAID?

11:33

23 A YES.

24 Q TAKE A LOOK AT EXHIBIT 26, PLEASE.

25 A EXHIBIT WHAT?

11:33

1 WILL BE THROUGH THE CLERK, WHICH IS TO SAY IT'S IN THE HANDS OF
2 THE COURT AND WE'RE THINKING ON IT, AND THAT'S WHERE IT WILL
3 STAND FOR NOW.

4 I STILL WANT TO GET HER PAPERWORK BACK TO HER.

5 ANTICIPATING YOUR RESPONSE, HOWEVER, I DID NOT HAVE 01:21
6 THE JURORS BROUGHT UP. I DID NOT KNOW HOW YOU WOULD GO WITH
7 THIS, AND I DEFER IT AS A DELICATE MATTER, EVEN WHEN WE EXCUSE
8 A JUROR FOR A HARDSHIP OR PURSUANT TO STIPULATION, BECAUSE,
9 AGAIN, IT TENDS TO SHOW FAVORITISM TO A PARTICULAR MEMBER OF
10 THE JURY PANEL. SO WE NEED TO TAKE A BREAK FOR ABOUT FIVE OR 01:22
11 SO MINUTES TO GET THE JURY PANEL UP HERE. WHEN WE RECONVENE,
12 WE'LL EXPECT TO HAVE THE WITNESS WHO WAS TESTIFYING SUBJECT TO
13 CROSS-EXAMINATION. SO WE STAND IN RECESS NOW.

14 (RECESS WAS TAKEN.)

15 THE COURT: WE CONCLUDED DIRECT EXAMINATION. LET US 01:30
16 INVITE CROSS-EXAMINATION AT THIS TIME, PLEASE.

17 MR. GREENBERG: THANK YOU, YOUR HONOR.

18 CROSS-EXAMINATION

19 BY MR. GREENBERG:

20 Q YOU WERE TALKING ABOUT SOME SUMMARIES THAT YOU PREPARED ON 01:31
21 DIRECT EXAMINATION, AND BY WAY OF EXAMPLE, PERHAPS, YOU COULD
22 LOOK AT EXHIBIT NO. 26.

23 IS THIS AN EXAMPLE OF ONE OF THE SUMMARIES THAT YOU
24 PREPARED?

25 A YES, IT IS. 01:31

1 Q IS THIS AN EXAMPLE OF ONE OF THE ONES YOU LEFT CERTAIN
2 FIELDS OUT?

3 A YES, IT IS.

4 Q OKAY. SO, IF I UNDERSTAND THE PROCEDURE, YOU GOT A HARD
5 COPY FROM, IN THIS CASE IT WAS RXAMERICA; RIGHT?

01:31

6 A CORRECT.

✓ 7 Q YOU GOT A HARD COPY ON PAPER. YOU ALSO GOT A DISK; RIGHT?

8 A YES.

9 Q YOU PRINTED IT OUT ON A DISK -- FROM THE DISK, AND THEN
10 YOU SAID YOU COMPARED IT WITH THE HARD COPY YOU GOT FROM

01:32

11 ~~RXAMERICA AND THEY WERE THE SAME; RIGHT?~~

12 A YES.

13 Q THEY WOULDN'T HAVE BEEN EXACTLY THE SAME BECAUSE YOU LEFT
14 SOME OF THE FIELDS OUT ON THE COPY YOU PRINTED FROM THE DISK;
15 IS THAT RIGHT?

01:32

16 A PERTINENT INFORMATION WAS THE SAME.

17 Q I'M SORRY?

18 A THEY WERE THE -- THE INFORMATION WAS CONTAINED IN THE
19 OTHER CHART.

20 Q WHAT WERE THE FIELDS THAT YOU LEFT OUT?

01:32

21 A I LEFT OUT N.A.B.P. NUMBER. I WOULD LEAVE OUT THE N.D.C.
22 NUMBER, THE MEMBER'S ADDRESS, JUST FIELDS THAT WERE NOT REALLY
23 IMPORTANT TO SPECIFIC CHECKS -- TO THE SPECIFIC SPREADSHEETS I
24 WAS CREATING.

25 Q NOW, LET ME DIRECT YOUR ATTENTION TO EXHIBITS 49, 50, AND

01:32

1 51, PLEASE.

2 A THEY HAVE GOTTEN OUT OF ORDER, SO...

3 MR. GREENBERG: I'LL PUT ONE UP, IF I CAN, YOUR
4 HONOR, SO THE JURY CAN SEE WHAT WE'RE TALKING ABOUT.

5 THE COURT: YES. JUST TELL US WHICH ONE. 01:33

6 MR. GREENBERG: I'LL USE THE SAME ONE THAT MR. KOLE
7 USED.

8 THE COURT: THAT NUMBER IS...

9 MR. GREENBERG: THIS IS 49, YOUR HONOR.

10 THE COURT: THANK YOU. 01:35

11 BY MR. GREENBERG:

12 Q I'M FOCUSING ON THE PRINTING OF THE PAGE.

13 DO YOU HAVE THAT IN FRONT OF YOU, AGENT VIELEY?

14 A YES, I DO.

15 Q YOU SAID THAT YOU PREPARED THIS DOCUMENT AND IT'S A 01:37
16 SUMMARY OF INFORMATION YOU RECEIVED FROM -- WAS IT RXAMERICA IN
17 THIS CASE?

18 A I BELIEVE IT WAS.

19 Q YES.

20 NOW, WHAT DOCUMENT OR DOCUMENTS DID YOU TAKE THIS 01:38
21 INFORMATION FROM IN ORDER TO PREPARE THE SUMMARY?

22 A FROM THE CLAIMS DATA -- THE ENTIRE DATABASE THAT I
23 RECEIVED FROM JOE LAPINE.

24 Q THAT THEY PROVIDED?

25 A THAT THEY PROVIDED, YES. 01:39

1 Q AND YOU SAID THE SUMMARIES ACCURATELY REFLECTED THE
2 INFORMATION THEY PROVIDED YOU; RIGHT?

3 A YES.

4 Q NOW, DID YOU EVER COMPARE THE INFORMATION THEY PROVIDED
5 YOU WITH THE ACTUAL RECORDS AT RXAMERICA, OR DID YOU SIMPLY
6 RELY ON WHAT THEY SENT YOU?

7 A I RELIED ON THE INFORMATION I RECEIVED FROM RXAMERICA.

8 Q OKAY. SO IF I UNDERSTAND IT RIGHT, YOU ASKED RXAMERICA,
9 SOMEONE IN A RESPONSIBLE POSITION THERE, TO SEND THE
10 INFORMATION, THEY EXTRACTED WHATEVER INFORMATION THEY DID BY
11 WHATEVER PROCESS THEY DID IT, AND THEN THAT'S WHAT YOU RELIED
12 ON?

13 A THAT'S CORRECT.

14 Q YOU DIDN'T ACTUALLY DO A COMPARISON WITH THE ACTUAL
15 RECORDS LOCATED AT RXAMERICA?

16 A NO, I DID NOT.

17 Q AND WOULD THE SAME BE TRUE WITH RESPECT TO ECKERD?

18 A YES.

19 Q AND WOULD THE SAME BE TRUE WITH, WHAT WAS THE THIRD
20 COMPANY YOU MENTIONED, UNITED PROVIDER --

21 A PROVIDER SERVICES.

22 Q SAME THING WOULD BE TRUE THERE?

23 A YES.

24 Q THANKS SO MUCH.

25 MR. GREENBERG: NOTHING FURTHER.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

- - -

HONORABLE ALICEMARIE H. STOTLER, JUDGE PRESIDING

UNITED STATES OF AMERICA,)

PLAINTIFF,)

VS.)

THUAN HUY HA;)

MY-HUONG THI HOANG,)

DEFENDANTS.)

NO. SA CR03-0029(A)-AHS

TRIAL DAY NINE

REPORTER'S TRANSCRIPT OF TRIAL PROCEEDINGS

SANTA ANA, CALIFORNIA

TUESDAY, MARCH 9, 2004

9:20 A.M.

**CERTIFIED
COPY**

THERESA A. LANZA, RPR, CSR
OFFICIAL COURT REPORTER
3470 12TH STREET
RIVERSIDE, CALIFORNIA 92501
(951) 274-0844

MARCH 9, 2004

TRIAL DAY NINE

148

1 NOTHING FURTHER OF THIS WITNESS.

2 THE COURT: WERE THERE OTHER QUESTIONS OF THIS
3 WITNESS?

4 MR. SILVERMAN: NO, YOUR HONOR.

5 MR. KOLE: NO QUESTIONS, YOUR HONOR.

6 THE COURT: ALL RIGHT, THEN. NOW THE WITNESS IS
7 EXCUSED.

8 THANK YOU.

9 MR. KOLE, YOU MAY RECALL THE WITNESS.

10 MR. KOLE: THANK YOU, YOUR HONOR.

11 THE GOVERNMENT RECALLS AGENT VIELEY.

12 THE CLERK: YOU ARE REMINDED THAT YOU'RE STILL UNDER
13 OATH.

14 (MS. VICKY L. VIELEY, HAVING BEEN PREVIOUSLY
15 SWORN, WAS EXAMINED BY MR. KOLE AS FOLLOWS:)

16 THE CLERK: PLEASE STATE YOUR NAME AGAIN FOR THE
17 RECORD.

18 THE WITNESS: VICKY L. VIELEY.

19 THE COURT: GO AHEAD.

20 MR. KOLE: THANK YOU.

21 DIRECT EXAMINATION (CONTINUED)

22 BY MR. KOLE:

23 Q OKAY. AGENT VIELEY, BACK TO OUR SHEETS.

24 DO YOU HAVE EXHIBIT 1?

25 A YES, I DO.

MARCH 9, 2004

TRIAL DAY NINE

149

1 Q AND WHAT I WAS STARTING TO ASK YOU BEFORE WAS -- AND I
2 THINK YOU WERE JUST STARTING TO ANSWER IT WHEN WE BROKE -- WHAT
3 IS THAT DOCUMENT BEFORE YOU?

4 A THIS IS CLAIM DATA THAT I RECEIVED FROM AETNA FOR
5 HA PHARMACY FROM JANUARY 2, 1999 TO APRIL 22, 2000.

6 Q WAS THIS DATA SENT TO YOU DIRECTLY?

7 A YES, IT WAS.

8 Q WHO DID YOU RECEIVE IT FROM?

9 A I RECEIVED IT FROM TABITHA KIELB.

10 Q AT AETNA?

11 A AT AETNA.

12 Q IN WHAT FORM DID YOU RECEIVE IT?

13 A I RECEIVED IT IN A HARD COPY, AND I ALSO GOT IT ON A
14 COMPUTER DISK.

15 Q WERE YOU ABLE TO READ THE DATA ON THE DISKETTE WITH YOUR
16 COMPUTER?

17 A YES, I WAS. I DOWNLOADED IT INTO AN EXCEL PROGRAM.

18 Q AND THE PRINTOUT THAT IS EXHIBIT 1, DID YOU ACTUALLY
19 YOURSELF PRINT OUT THIS DOCUMENT?

20 A THIS IS A PRINTOUT FROM MY COMPUTER, YES.

21 Q DID YOU INCLUDE ALL OF THE DATA FIELDS THAT AETNA GAVE TO
22 YOU IN THIS PRINTOUT?

23 A NO-- I OMITTED SEVERAL FIELDS JUST BECAUSE THEY WERE SO
24 LARGE.

25 Q AND DID YOU DO THAT FOR THE PURPOSES OF READABILITY AND

1 SPACE?

2 A YES.

3 Q DO YOU RECALL WHAT ITEMS YOU DID NOT INCLUDE IN THE
4 PRINTOUT?

5 A MAYBE THE RX NUMBER, THE NDC NUMBER, IF IT LOOKED LIKE A
6 REFILL. SOMETIMES IT HAS THE COUNTY OR THE ACTUAL PHARMACY
7 NUMBER.

8 Q IN GENERAL, WERE THE ITEMS THAT YOU CHOSE NOT TO INCLUDE
9 ONES THAT WERE NOT REALLY NECESSARY TO IDENTIFY THE PARTICULAR
10 PRESCRIPTION AND WHO SUPPOSEDLY GOT IT?

11 A YES. I TAILORED THE CHARTS FOR WHAT I NEEDED THEM FOR.

12 Q IS THIS PRINTOUT THEN A SUMMARY OF DATA THAT AETNA GAVE
13 OUT AS CLAIMS FROM HA PHARMACY?

14 A YES, IT IS.

15 Q DID YOU ALTER OR CHANGE ANY OF THE ACTUAL DATA CONTAINED
16 IN THE RECORD YOU RECEIVED?

17 A NO, I DID NOT. SOMETIMES I WOULD ADD A TOTAL AT THE END,
18 BUT -- OR I WOULD CHANGE THE TITLE SOMETIMES.

19 Q BUT THE ACTUAL DATA WITHIN THE SHEET, DID YOU CHANGE
20 ANYTHING?

21 A NO, I NEVER CHANGED THE DATA.

22 Q AND IN THIS ONE, DID YOU ADD THE TITLE AT THE TOP OF EACH
23 PAGE?

24 A YEAH, THE TITLE ON THE TOP, AND THEN THE TOTAL ON THE
25 BOTTOM.

1 Q AGAIN, YOU SAID EXCEL WAS THE PROGRAM YOU USED FOR THIS
2 PRINTOUT?

3 A YEAH, IT WAS.

4 Q IS THIS ACTUAL DOCUMENT, EXHIBIT 1, A PHOTOCOPY OF THE ONE
5 THAT MS. KIELB SENT TO YOU?

6 A NO, IT'S NOT.

7 Q DOES IT HAVE THE DATE OF FEBRUARY 13, 2004 AT THE BOTTOM
8 BECAUSE THAT'S THE DATE YOU PRINTED IT?

9 A YES.

10 Q DID YOU HAVE OCCASION TO COMPARE THIS PRINTOUT TO THE
11 ORIGINAL DATA SENT TO YOU FROM AETNA TO VERIFY THAT THIS
12 PRINTOUT WAS AN ACCURATE REPRESENTATION OF WHAT AETNA SENT TO
13 YOU?

14 A YES. I COMPARED THE AMOUNT PAID AND THE AMOUNT SUBMITTED,
15 AND THEY WERE THE SAME.

16 Q AND ON THE LAST PAGE, EXHIBIT 1-72, CAN I DIRECT YOUR
17 ATTENTION TO THAT PAGE, PLEASE.

18 A OKAY.

19 MR. KOLE: YOUR HONOR, MAY I PUBLISH THAT PAGE?

20 THE COURT: YES, YOU MAY.

21 MR. KOLE: AGAIN, THAT'S EXHIBIT 1-72.

22 BY MR. KOLE:

23 Q AGENT VIELEY, DO YOU SEE ON THE SCREEN THAT IT'S ZOOMED IN
24 ON THE TITLE?

25 A YES.

MARCH 9, 2004

TRIAL DAY NINE

152

1 Q LET ME DIRECT YOUR ATTENTION TO THE LOWER RIGHT-HAND
2 CORNER. DO YOU SEE THE WORD "TOTAL" THERE?

3 A YES, I DO.

4 Q WHAT DOES IT INDICATE WAS THE TOTAL AMOUNT PAID BY AETNA
5 TO HA PHARMACY?

6 A \$7,082,745.55.

7 Q AND WAS THAT TOTAL INCLUDED IN THE ORIGINAL DATA SENT TO
8 YOU?

9 A YES, IT WAS.

10 Q NOW, TURN TO EXHIBIT NO. 2.

11 A OKAY.

12 Q WHAT IS EXHIBIT 2?

13 A EXHIBIT NO. 2 IS HA PHARMACY CLAIM DATA THAT I RECEIVED
14 THAT WAS SUBMITTED TO CAREMARK.

15 Q WHAT TIME PERIOD DOES THAT COVER?

16 A JANUARY '99 TO MAY OF 2000.

17 Q WHO DID YOU RECEIVE IT FROM?

18 A I BELIEVE I RECEIVED THIS FROM KEN RUESCH.

19 Q IN WHAT FORM DID HE SEND THIS DATA TO YOU?

20 A IN A PAPER COPY AND ALSO ON A COMPUTER DISK.

21 Q AGAIN, WERE YOU ABLE TO READ THE COMPUTER DISKETTE ON YOUR
22 COMPUTER?

23 A YES.

24 Q IS THIS ACTUAL PRINTOUT THAT'S EXHIBIT 2 A PHOTOCOPY YOU
25 MADE FROM THE HARD COPY THAT WAS SENT TO YOU?

1 A NO. THIS IS A COPY THAT I PRINTED FROM MY COMPUTER.

2 Q IS THAT WHY IT BEARS A FEBRUARY '04 DATE ON THE BOTTOM?

3 A YES.

4 Q IS THAT THE DATE WHEN YOU PRINTED IT?

5 A YES.

6 Q DID YOU PRINT OUT ALL OF THE DATA THAT CAREMARK SENT TO
7 YOU?

8 A NO, I OMITTED SEVERAL FIELDS FROM THIS ONE AS WELL.

9 Q AGAIN, FOR SPACE PURPOSES?

10 A YES.

11 Q AND WAS IT ALSO BECAUSE YOU BELIEVED THAT EXTRA
12 INFORMATION WASN'T NECESSARY TO IDENTIFY THE PARTICULAR
13 PRESCRIPTIONS THAT WERE REPRESENTED HERE?

14 A CORRECT.

15 Q DID YOU ADD ANYTHING TO THE PRINTOUT?

16 A THE TITLE.

17 Q ON THIS ONE, DID YOU ALSO EDIT OR SLIGHTLY REVISE THE
18 TITLES OF EACH COLUMN TO MAKE THEM SOMEWHAT MORE READABLE
19 ENGLISH?

20 A I BELIEVE I DID.

21 Q WHAT WOULD THOSE ITEMS BE? THE MEMBER NAME, DRUG NAME AND
22 THE PRESCRIBER?

23 A CORRECT.

24 Q DOES THIS ACCURATELY REPRESENT A SUMMARY OF THE DATA
25 PROVIDED TO YOU BY CAREMARK?

1 A YEAH.

2 Q DID YOU COMPARE ANY DATA CONTAINED WITHIN THESE SHEETS --
3 AFTER YOU PRINTED IT OUT, DID YOU COMPARE YOUR PRINTOUT TO THE
4 ORIGINAL DATA SENT TO YOU BY CAREMARK TO SEE IF IT WAS AN
5 ACCURATE DEPICTION OF THAT DATA?

6 A YES, I DID.

7 Q DID YOU DETERMINE THAT IT WAS ACCURATE?

8 A YES, IT WAS.

9 Q WAS THE TOTAL INCLUDED ON THE BOTTOM OF THE LAST PAGE?

10 A IT IS.

11 MR. KOLE: YOUR HONOR, MAY I PUBLISH EXHIBIT 2-73?

12 THE COURT: YES.

13 (EXHIBIT 2-73 PUBLISHED TO THE JURY.)

14 BY MR. KOLE:

15 Q DO YOU SEE THE TITLE OF THE DOCUMENT ON THE SCREEN?

16 A YES, I DO.

17 Q DIRECTING YOUR ATTENTION TO THE LOWER RIGHT-HAND CORNER,
18 WHICH I'VE PLACED ON THE SCREEN, DOES IT INDICATE THE AMOUNT
19 PAID BY CAREMARK TO HA PHARMACY?

20 A YES, IT DOES.

21 Q WHAT DOES IT SAY?

22 A \$3,938,587.33.

23 Q -- NOW, PLEASE TURN TO EXHIBIT NO. 5.

24 A ALL RIGHT.

25 Q DO YOU RECOGNIZE EXHIBIT 5?

MARCH 9, 2004

TRIAL DAY NINE

155

1 A YES, I DO.

2 Q WHAT IS IT?

3 A THIS IS BLUE CROSS/WELLPOINT CLAIMS SUBMITTED BY
4 HA PHARMACY FROM FEBRUARY OF 1999 THROUGH AUGUST OF 2000.

5 Q DID YOU RECEIVE THIS DATA FROM SOMEONE?

6 A YES, I DID.

7 Q FROM WHO?

8 A I RECEIVED THESE FROM BRUCE STOUGHTON AND FROM DENNIS KOON
9 AT WELLPOINT.

10 Q DID THEY SEND THIS TO YOU IN THE SAME WAY AS THE OTHERS
11 DID, IN HARD COPY FORM, AND ON A COMPUTER DISK?

12 A YES.

13 Q WERE YOU ABLE TO READ THAT DISK ON YOUR COMPUTER?

14 A YES.

15 Q THE PRINTOUT THAT IS EXHIBIT 5, WAS THAT A PHOTOCOPY OF
16 THE HARD COPY YOU WERE GIVEN?

17 A NO.

18 Q TELL US HOW YOU PROCEEDED.

19 A I PRINTED IT OUT ON MY COMPUTER.

20 Q DID YOU PRINT OUT THE DATA AT THE BOTTOM RIGHT-HAND
21 CORNER?

22 A YES, I DID.

23 Q ...DID YOU INCLUDE ALL OF THE DATA FIELDS PRESENTED TO YOU BY
24 BLUE CROSS? DID YOU INCLUDE ALL OF THE DATA FIELDS BLUE CROSS
25 AND WELLPOINT PROVIDED TO YOU ON THIS PRINTOUT?

MARCH 9, 2004

TRIAL DAY NINE

156

1 A NO, I BELIEVE I OMITTED SEVERAL FIELDS.

2 Q WAS THIS FOR THE SAME REASON AS IT WAS FOR THE OTHER
3 PRINTOUTS?

4 A YES.

5 Q DID YOU MAKE THAT DECISION IN THE SAME MANNER, LEAVING OUT
6 ITEMS THAT YOU FELT WERE NOT NECESSARY TO IDENTIFY THE
7 PARTICULAR PRESCRIPTIONS --

8 A CORRECT.

9 Q -- ON THIS DOCUMENT?

10 DID YOU, AGAIN, ADD A TITLE AND MAKE THE HEADERS AT
11 THE TOP OF THE COLUMNS SOMEWHAT MORE READABLE?

12 A YES.

13 Q AND DID YOU INSERT A COMMAND TO CREATE A SUM TOTAL AT THE
14 END?

15 A I BELIEVE I DID, YES.

16 Q IS THIS DOCUMENT A SUMMARY OF DATA PROVIDED TO YOU BY
17 BLUE CROSS/WELLPOINT?

18 A YES, IT IS.

19 Q AND DID YOU CHANGE ANY OF THE DATA IN THE FIELDS ON THIS
20 ONE?

21 A NO, I DID NOT.

22 Q DID YOU COMPARE THIS PRINTOUT TO THE ORIGINAL DATA YOU
23 RECEIVED FROM BLUE CROSS/WELLPOINT TO MAKE SURE IT WAS --
24 ACCURATE?

25 A YES, I DID.

MARCH 9, 2004

TRIAL DAY NINE

157

1 MR. KOLE: YOUR HONOR, MAY I PUBLISH THE LAST PAGE,
2 5-51?

3 THE COURT: YES.

4 (EXHIBIT 5-51 PUBLISHED TO THE JURY.)

5 BY MR. KOLE:

6 Q AGENT VIELEY, DO YOU SEE THE TITLE OF THE DOCUMENT THERE
7 ON THE SCREEN?

8 A YES, I DO.

9 Q LET ME DIRECT YOUR ATTENTION DOWN TO THE LOWER RIGHT-HAND
10 CORNER.

11 ACTUALLY, FIRST LOOK TO THE LOWER LEFT-HAND CORNER.
12 DO YOU SEE THE WORD "TOTAL" ON THE LAST LINE? FOLLOW THAT LINE
13 ACROSS TO THE RIGHT, UNDER THE "AMOUNT PAID" COLUMN.

14 A ALL RIGHT.

15 Q IS THERE A TOTAL LISTED?

16 A YES, THERE IS: \$357,294.37.

17 Q NOW, LET'S TURN TO EXHIBIT 6.

18 A ALL RIGHT.

19 Q WHAT'S EXHIBIT 6?

20 A THIS IS CARE PHARMACY CLAIMS, ADVANCED PCS.

21 Q IS THIS DATA YOU RECEIVED FROM ADVANCED PCS?

22 A YES, IT IS.

23 Q IN WHAT FORM DID ADVANCED PCS PROVIDE THIS TO YOU?

24 A ON PAPER AND ON COMPUTER DISK.

25 Q WERE YOU ABLE TO READ THE DISK PROVIDED ONTO YOUR

1 COMPUTER?

2 A YES.

3 Q HERE AGAIN, IS THIS A PHOTOCOPY OF THE PRINTOUT THEY SENT
4 TO YOU?

5 A NO, IT'S NOT. I PRINTED THIS OUT ON MY COMPUTER.

6 Q ON THE DATE INDICATED AT THE LOWER RIGHT-HAND CORNER?

7 A YES; FEBRUARY 13, 2004.

8 Q IS THIS THEN A SUMMARY OF THE DATA PROVIDED TO YOU BY
9 ADVANCED PCS?

10 A YES, IT IS.

11 Q AND HERE AGAIN, DID YOU ONLY INCLUDE CERTAIN FIELDS FOR
12 THE PURPOSES OF READABILITY AND SIZE?

13 A YES.

14 Q DID YOU HERE, AS WITH THE OTHERS, JUST OMIT ITEMS THAT
15 WERE NOT NECESSARY TO IDENTIFY; SUCH AS THE DATE, THE
16 PRESCRIPTION, THE DRUG, THE DOCTOR, THE PATIENT?

17 A THAT'S CORRECT.

18 Q DID YOU CHANGE ANY OF THE DATA CONTAINED WITHIN THIS
19 SPREADSHEET?

20 A NO, I DID NOT.

21 Q DID YOU COMPARE THIS PRINTOUT WHEN YOU HAD CREATED IT TO
22 THE ORIGINAL DATA YOU HAD RECEIVED TO MAKE SURE IT WAS
23 ACCURATE?

24 A YES, I DID.

25 Q ON THIS ONE, DID YOU AGAIN ADD THE TITLE AT THE TOP OF

1 EACH PAGE AND MAKE THE COLUMN HEADINGS SOMEWHAT MORE READABLE?

2 A YES.

3 Q DID YOU ADD A COMMAND AT THE END TO CREATE A TOTAL?

4 A YES.

5 Q DID YOU ALSO HAVE TO DO SOMETHING WITH THE DOCTORS' NAMES?

6 A YES. I ADDED -- I DUPLICATED THE M.D. D.E.A. NUMBER, AND
7 THEN I HAD TO REPLACE THEM SO I COULD PUT IN THE DOCTORS' NAMES
8 INSTEAD OF THE NUMBERS.

9 Q IN THE DATA THEY SENT YOU, ADVANCED PCS JUST LISTED DEA
10 NUMBERS AND NOT THE CORRESPONDING NAMES. IS THAT IT?

11 A CORRECT. THEY DID NOT GIVE DOCTORS' NAMES; SO, TO MAKE IT
12 EASIER TO READ, I DUPLICATED THE FIELD AND THEN REPLACED IT
13 WITH THE NUMBERS THAT I COULD REPLACE.

14 MR. KOLE: YOUR HONOR, MAY I PUBLISH 6-1?

15 THE COURT: GO AHEAD.

16 (EXHIBIT 6-1 PUBLISHED TO THE JURY.)

17 BY MR. KOLE:

18 Q AGENT VIELEY, DO YOU SEE ON THE SCREEN WHERE I'VE PLACED
19 EXHIBIT 6-1, AND I'VE ZOOMED IN ON THE TOP OF THE FIRST PAGE,
20 IN REGARDS TO THE M.D. DEA NUMBER?

21 A YES.

22 Q IN FACT, I SEE NOW THAT BOTH COLUMNS ACTUALLY SAY DEA
23 NUMBER AT THE TOP.

24 DID YOU INTEND FOR THE RIGHT COLUMN, THE ONE ON THE
25 RIGHT SIDE, TO ACTUALLY BE THE M.D. NAMES?

1 A CORRECT. THEY WERE DUPLICATED. I JUST DIDN'T SAY. THAT
2 SHOULD HAVE BEEN THE DOCTORS' NAMES.

3 Q IF ADVANCED PCS SENT YOU THE DEA NUMBER AND NOT THE NAME,
4 HOW WERE YOU ABLE TO KNOW THE NAMES?

5 A I LOOKED THEM UP FROM THE OTHER INSURANCE COMPANIES, OR I
6 CONTACTED DEA AND GOT THE DOCTORS' NAMES FROM THE NUMBERS.

7 Q AND ON EXHIBIT 6, DIRECTING YOUR ATTENTION TO THE LAST
8 PAGE, AND AS WITH THE OTHERS IN THE BOTTOM, IS THERE A TOTAL?

9 A YES.

10 MR. KOLE: MAY I PUBLISH PAGE 6-45, YOUR HONOR?

11 THE COURT: GO AHEAD.

12 (EXHIBIT 6-45 PUBLISHED TO THE JURY.)

13 BY MR. KOLE:

14 Q DO YOU SEE THE TITLE OF THE DOCUMENTS ON THE SCREEN?

15 A YES.

16 Q NOW, DIRECTING YOUR ATTENTION DOWN TO THE LOWER RIGHT-HAND
17 CORNER. DO YOU SEE THE AMOUNT IN BOLD?

18 A YES, I DO.

19 Q WHAT WAS THE TOTAL OF THE AMOUNT PAID TO HA PHARMACY BY
20 ADVANCED PCS ON THIS SPREADSHEET?

21 A \$363,881.99.

22 Q THANK YOU. NOW, DIRECTING YOUR ATTENTION TO EXHIBIT 7.

23 DO YOU RECOGNIZE EXHIBIT 7?

24 A YES. THIS IS A CLAIM FILE SUBMITTED BY CARE PHARMACY TO
25 BLUE SHIELD OF CALIFORNIA.

MARCH 9, 2004

TRIAL DAY NINE

161

1 Q IS THIS A PRINTOUT BASED ON DATA YOU RECEIVED FROM BLUE
2 SHIELD?

3 A YES, IT IS.

4 Q WHO DID YOU RECEIVE THE DATA FROM?

5 A LOUIS LOVATO.

6 Q IN WHAT FORM WAS IT SENT?

7 A I RECEIVED IT IN A PAPER FORM AND ALSO ON DISK.

8 Q AND WERE YOU ABLE TO READ THE DISK ONTO YOUR COMPUTER?

9 A YES, I WAS.

10 Q IS EXHIBIT 7 A PHOTOCOPY OF THE HARD COPY THEY SENT TO
11 YOU?

12 A NO. IT'S A PRINTOUT FROM MY OWN COMPUTER.

13 Q AS WITH THE OTHERS, IS THE DATE YOU PRINTED IT INDICATED
14 IN THE LOWER RIGHT-HAND CORNER?

15 A YES; FEBRUARY 13, 2004.

16 Q DID YOU INCLUDE ALL OF THE DATA THAT BLUE SHIELD SENT TO
17 YOU?

18 A NO, I DID NOT.

19 Q DID YOU EXCLUDE CERTAIN ITEMS, AGAIN, FOR SPACE REASONS
20 AND READABILITY?

21 A YES, I DID.

22 Q DID YOU MAKE THAT DECISION USING THE SAME RATIONALE THAT
23 WE'VE GONE OVER ALREADY ON THE OTHER PRINTOUTS?

24 A YES.

25 Q AND HERE DID YOU ADD ANYTHING OTHER THAN THE TITLE AND

1 MAKING THE HEADER DESCRIPTIONS MORE READABLE?

2 A I MIGHT HAVE ADDED THE TOTAL.

3 Q LET'S TURN TO THAT ON THE LAST PAGE OF 7-24.

4 IS THERE A TOTAL?

5 A YES, THERE ARE TWO TOTALS.

6 Q LET ME ASK YOU, FIRST, IS THIS PRINTOUT A SUMMARY OF DATA
7 THAT BLUE SHIELD PROVIDED TO YOU?

8 A YES, IT IS.

9 Q DID YOU CHANGE ANY OF THE DATA IN THE SPREADSHEET?

10 A NO, I DID NOT.

11 Q DID YOU COMPARE THE RESULTING PRINTOUT WITH THE ORIGINAL
12 DATA TO CHECK IF IT WAS ACCURATE?

13 A I DID.

14 Q NOW, LET'S LOOK AT 7-24.

15 MR. KOLE: MAY I PUBLISH THAT PAGE, YOUR HONOR?

16 THE COURT: YES.

17 BY MR. KOLE:

18 Q DO YOU SEE THE TITLE ON THE SCREEN?

19 A YES.

20 Q NOW DIRECTING YOUR ATTENTION DOWN TO THE LOWER RIGHT-HAND
21 CORNER. DO YOU SEE THE TOTAL IN BOLD?

22 A THERE'S TWO, YES.

23 Q LET'S LOOK AT THE BOTTOM FAR-RIGHT CORNER, THE COLUMN
24 ENTITLED "PAID." AT THE BOTTOM OF THAT, WHAT'S THE TOTAL THERE
25 IN DOLLARS?

MARCH 9, 2004

TRIAL DAY NINE

163

1 A 182,685.31.

2 Q DO YOU HAVE EXHIBIT 20?

3 A YES, I DO.

4 Q WHAT IS THAT?

5 A THIS IS A CHART THAT I CREATED IN THE EXCEL PROGRAM FOR
6 PATIENT [REDACTED]

7 Q HOW DID YOU CREATE THIS?

8 A FROM THE AETNA CLAIMS INFORMATION THAT I RECEIVED.

9 Q AGAIN, WHAT TYPE OF INFORMATION IS SPECIFICALLY IN THIS
10 PARTICULAR CHART?

11 A THIS IS HA PHARMACY CLAIMS FOR [REDACTED] THAT WAS
12 SUBMITTED TO AETNA.

13 Q AND YOU GOT THIS FROM AETNA'S DATA THAT THEY SENT TO YOU?

14 A YES.

15 Q HOW DID YOU MANIPULATE THE INFORMATION TO OBTAIN THIS
16 PARTICULAR PRINTOUT?

17 A I JUST SORTED BY LAST NAME, FIRST NAME AND FILL DATE, AND
18 THEN I CUT AND PASTED IT TO MAKE THE NEW CHART.

19 Q WAS THE RESULT OF THAT EFFORT A LIST OF CLAIMS FOR THAT
20 PARTICULAR PATIENT, [REDACTED]?

21 A YES, IT WAS.

22 Q DID YOU ADD ANYTHING ELSE TO THIS DOCUMENT?

23 A JUST THE TITLE AND THE TOTALS.

24 Q DID YOU THEN PRINT OUT A HARD COPY?

25 A YES, I DID.

APPENDIX B

FREEDOM OF INFORMATION / PRIVACY ACT OF 1974
REQUEST FORM

TO: Executive Office For
U.S. Attorneys
950 Pennsylvania Ave NW
Washington DC, 20530-0001

FROM: Thuan Huy Ha
Reg# 18103-112 / K1
PO Box 1000
Sandstone, MN 55072

Pursuant to Title 5 U.S.C. 552 and all other relevant sections and parts thereof, I the undersigned, also identified above in the upper right-hand section of this form, hereby respectfully request the following information:

Re: US v. THUAN HUY HA / Case No. SA CR 03-029 AHS / California.
the original primary evidence, which is the Ha Pharmacy's original
billing record, the government received from the pharmacy benefit
management companies included Eckerd, RxAmerica, United Provider
Service, Aetna, Caremark, BlueCross, Advance PCS, and BlueShield in
the hard copy form along with the diskette.

If there are applicable rules and regulations governing your Agency in such matters, please forward them to me so that I might comply with them per the Freedom of Information Act of 1974.

If for any reason any of the above-requested information or material is deemed to be privileged and/or exempt under the F.O.I., please specify the statutory reasons for the exemption, the name and title of the person(s) making the decision to withhold the material.

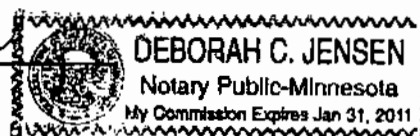
Per the dictates of the Freedom of Information Act of 1974, your Agency has twenty (20) working days to respond to this request. In the event I do not receive a response by that time, I will deem this to be a formal denial and seek judicial remedy.

DATED: 6/10/09

Submitted by: Thuan Huy Ha
Requestor

Sworn and Subscribed before me this 10th day of June, 2009.

Deborah C. Jensen
CASE MANAGER / NOTARY PUBLIC



APPENDIX C



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

SEP 8 2010

Mr. Thuan Huy Ha
Register No. 18103-112
Federal Correctional Institution
Post Office Box 7001
Taft, CA 93268

Re: Appeal No. 2010-2762
Request No. 09-2891
CAS:MWH

Dear Mr. Ha:

You appealed from the action of the Executive Office for United States Attorneys (EOUSA) on your request for access to records pertaining to "the Ha Pharmacy's original billing record." Although your appeal was untimely because it was received by this Office approximately sixteen days past the regulatory deadline, in light of the apparent mail delays into and out of your prison, I am adjudicating your appeal as a matter of administrative discretion.

After carefully considering your appeal, I am affirming EOUSA's action on your request. Please be advised that EOUSA referred forty pages of responsive records to the FBI for processing and direct response to you. This referral was proper and in accordance with Department of Justice regulations. See 28 C.F.R. § 16.4 (2009). If you have any questions concerning the status of this referral, please contact the FBI directly. You may appeal any future adverse determination made by the FBI.

If you are dissatisfied with my action on your appeal, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Janice Galli McLeod
Associate Director

Product	Formulation	Strength	Quantity	Unit	Lot	Expiry	Manufacturer	Brand	Price	Quantity	Unit	Lot	Expiry	Manufacturer	Brand	Price
0000231	NEW	M	58	09/2/2000	BD3915888	CEZIL	500MG	30	\$173.88	055554	00087072180					
0000230	NEW	M	58	09/2/2000	BD3915888	ZITHROMAX	250MG	6	\$27.56	055554	000590308030					
0000248	NEW	F	31	9/13/2000	BY7873265	BRETHINE	2.5MG	80	\$5.00	055554	000280007201					
0000255	NEW	M	42	9/14/2000	AN2122733	LEVAQUIN	500MG	10	\$39.54	055554	000450162550					
0000256	NEW	M	42	9/14/2000	AN2122733	CECLOR CD	500MG	14	\$14.80	055554	514790003560					
0000259	NEW	M	42	9/15/2000	AN2122733	PREVACID	30MG	30	\$65.85	055554	003000304613					
0000258	NEW	M	42	9/15/2000	AN2122733	CLARITIN-D	10-24	30	\$55.41	055554	000850123301					
0000276	NEW	F	27	9/16/2000	AP8830108	VICOPROFEN	200-7	30	\$13.21	055554	000440073032					
0000288	NEW	M	53	9/22/2000	BT468414	LAC-HYDRIN	12%	400	\$24.56	055554	000720573028					
0000290	NEW	F	53	9/22/2000	BT468414	NASONEX	50MCG	17	\$33.35	055554	000850119701					
0000319	NEW	S	31	9/23/2000	AV95869981	BENZAMICIN	GEL	47	\$59.43	055554	000860051046					
0000318	NEW	F	27	9/23/2000	AP8830108	ZITHROMAX	250MG	6	\$22.56	055554	0008600308030					
0000316	NEW	M	58	9/23/2000	BD3915888	VAGRA	50MG	6	\$37.50	055554	0008600421030					
0000315	NEW	M	58	9/23/2000	BD3915888	LAMISIL	250MG	30	\$187.50	055554	000760017915					
0000341	NEW	M	58	9/27/2000	BD3915888	CLARITIN-D 24 HOU	240-1	30	\$62.12	055554	000850123301					
0000333	NEW	M	58	10/2/2000	BD3915888	CEFTIN	500MG	30	\$181.11	055554	001730038400					
0000367	NEW	M	42	10/2/2000	AN2122733	LEVAQUIN	500MG	10	\$39.54	055554	000450162550					
0000404	NEW	M	53	10/2/2000	AN9423536	SINGULAR	10MG	30	\$58.80	055554	000860011731					
0000411	NEW	M	8	10/5/2000	A7360027	BACTROBAN	2%	30	\$20.53	055554	000280152525					
0000426	NEW	M	42	10/7/2000	AT1263211	ALLEGRA	60MG	60	\$39.73	055554	000860110247					
0000456	NEW	M	40	10/9/2000	BD2135820	CLARITIN	10MG	30	\$47.70	055554	000850045806					
0000456	NEW	M	40	10/9/2000	BD2135820	ELOCON	0.1%	45	\$19.27	055554	000850037602					
0000444	NEW	F	18	10/9/2000	AN2122733	RHINOCORT	32MCG	7	\$20.58	055554	001860107509					
0000447	NEW	F	18	10/9/2000	AN2122733	RETINA	0.1%	45	\$57.64	055554	000620027501					
0000445	NEW	F	18	10/9/2000	AN2122733	CEFTIN	250MG	20	\$57.00	055554	001730038700					
0000443	NEW	F	18	10/9/2000	AN2122733	CLARITIN-D	10-24	30	\$55.41	055554	000850123301					
0000446	NEW	F	18	10/9/2000	AN2122733	RETINA	0.1%	45	\$57.64	055554	000620027501					
0000442	NEW	F	18	10/9/2000	AN2122733	CLARITIN-D	10-24	30	\$55.41	055554	000850123301					
0000441	NEW	F	16	10/9/2000	AN2122733	CEFTIN	250MG	20	\$57.00	055554	001730038700					
0000440	NEW	M	42	10/9/2000	AN2122733	NASONEX	50MCG	17	\$31.80	055554	000850119701					
0000438	NEW	M	42	10/9/2000	AN2122733	CLARITIN-D	10-24	30	\$55.41	055554	000850123301					
0000474	NEW	M	42	10/12/2000	AT1263211	VANDENASE AQ SPR	0.64%	19	\$34.41	055554	000850104801					
0000475	NEW	M	42	10/12/2000	AT1263211	LOTIRISONE	CRE	45	\$31.82	055554	000850092402					
0000259	REF	M	42	10/13/2000	AN2122733	PREVACID	30MG	30	\$65.85	055554	003000304613					
0000463	NEW	F	18	10/14/2000	AN2122733	LEVAQUIN	500MG	10	\$39.54	055554	000450162550					
0000481	NEW	M	42	10/14/2000	AN2122733	LEVAQUIN	500MG	10	\$39.54	055554	000450162550					
0000340	REF	M	58	10/14/2000	BD3915888	PREDNISOLONE ACET	1%	5	\$5.80	055554	807580011805					
0000480	NEW	M	58	10/14/2000	BD3915888	CEFACLOR	500MG	30	\$21.80	055554	003782750001					

0000492	NEW	M	H	58	10/14/2000	BD3915889	ADALAT CC	60MG	30	\$50.10	055554	00026088515
0000491	NEW	M	H	58	10/14/2000	BD3915889	AMBIEN	10MG	14	\$18.06	055554	00025054213
0000513	NEW	M	H	54	10/19/2000	AN1063471	COMBIVENT AER	110MG	15	\$18.30	055554	00597000131
0000514	NEW	M	H	54	10/19/2000	AN1063471	FLOVENT AER	110MG	13	\$46.84	055554	00173004840
0000560	NEW	F	S	27	10/20/2000	BH5315418	PATANOL	0.1%	5	\$38.73	055554	00065002710
0000568	NEW	F	S	27	10/20/2000	BH5315418	MEBENDAZOLE	100MG	6	\$23.11	055554	38245001070
0000569	NEW	F	S	27	10/20/2000	BH5315418	DIFLORASONE DIACE	0.05%	60	\$77.48	055554	00168002436
0000567	NEW	F	S	27	10/20/2000	BH5315418	CEFTIN	500MG	20	\$118.01	055554	00173003940
0000522	NEW	M	C	19	10/20/2000	BN5812882	ZITHROMAX TAB	250MG	6	\$33.43	055554	00066003060
0000523	NEW	M	C	19	10/20/2000	BN5812882	GUATUSSAC SYP	10-10	480	\$5.38	055554	00472000121
0000538	NEW	M	H	42	10/20/2000	BA4345284	BENZAMYCIN GEL		47	\$59.43	055554	00066005104
0000535	NEW	M	H	42	10/20/2000	BA4345284	ACCUTANE CAP	20MG	60	\$344.00	055554	00004001694
0000534	NEW	M	H	56	10/20/2000	BD3915889	TOBRADEX	0.3%	5	\$25.00	055554	00005008470
0000583	NEW	F	S	50	10/23/2000	AN2236025	DIFLORASONE OIN	0.05%	90	\$95.55	055554	00168002430
0000584	NEW	M	H	56	10/23/2000	AP7026805	AMBIEN TAB	5MG	20	\$18.00	055554	00025054013
0000589	NEW	F	S	27	10/24/2000	B74608414	PRIOSEC	20MG	60	\$202.32	055554	61130007423
0000602	NEW	M	H	31	10/26/2000	AN4423536	CLOBETASOL OIN	0.05%	45	\$17.94	055554	23317004014
0000613	NEW	M	H	31	10/27/2000	AN4423536	ALLEGRA CAP	60MG	60	\$38.73	055554	00086011024
0000618	NEW	F	C	17	10/28/2000	AN2127733	LEVAMISOL TAB	600MG	10	\$39.54	055554	00045015250
0000621	NEW	M	H	34	10/30/2000	AN1063471	SINGULAR TAB	10MG	30	\$56.90	055554	00008001173
0000641	NEW	M	H	31	11/07/2000	AN2236025	ZOVIRAX OIN	5%	15	\$27.63	055554	00173008939
0000641	REF	M	H	31	11/07/2000	AN2236025	ZOVIRAX OIN	5%	15	\$28.84	055554	00173008939
0000634	REF	M	H	31	11/07/2000	BD3915889	TOBRADEX	0.3%	5	\$25.00	055554	00005008470
0000634	NEW	M	H	31	12/4/2000	AN1311492	PRIOSEC CAP	10MG	30	\$61.58	055554	00166006063
0000633	NEW	M	H	31	12/4/2000	AN1311492	ALLEGRA CAP	60MG	60	\$18.73	055554	00086011024
0000641	NEW	M	H	31	12/4/2000	AN2236025	ZOVIRAX OIN	5%	15	\$28.84	055554	00173008939
0000684	NEW	F	S	44	12/7/2000	AN2893469	ORTHO TRI TAB	CYCLE	28	\$13.48	055554	00062018031
0000674	NEW	M	H	53	12/8/2000	BL1321025	OCUFLOX SOL	0.3%	10	\$34.00	055554	11980007791
0000673	NEW	M	H	53	12/8/2000	BL1321025	ACULAR SOL	0.5%	5	\$28.06	055554	00023021810
0000686	NEW	M	C	6	12/12/2000	BK0653053	ZYRTEC SYP	5MG/5	240	\$34.65	055554	00086005504
0000685	NEW	M	C	6	12/12/2000	BK0653053	VANCENASE AQ SPR	0.84%	19	\$36.08	055554	00085010480
0000755	NEW	M	H	53	12/19/2000	BD2416976	DOVONEX OIN	0.005	60	\$77.74	055554	00072025400
0000756	NEW	M	H	53	12/19/2000	BD2416976	FLOXASE SPR	0.05%	16	\$46.63	055554	00173004533
0000757	NEW	M	H	53	12/19/2000	BD2416976	BACTROBAN CRE	2%	30	\$40.95	055554	00029015272
0000758	NEW	M	H	53	12/19/2000	BD2416976	PRIOSEC CAP	20MG	30	\$104.55	055554	00168007423
0000759	NEW	M	H	53	12/19/2000	BD2416976	BAXIN TAB	250MG	40	\$127.01	055554	00074033880
0000780	NEW	M	H	53	12/19/2000	BD2416976	PRAVACHOL TAB	40MG	30	\$89.54	055554	00000005194
0000754	NEW	M	H	53	12/19/2000	BD2416976	DIFLORASONE CRE	0.05%	60	\$81.82	055554	00168002426
0000737	NEW	M	H	29	12/19/2000	AN5859641	CLARITIN-D 24 HOU	240-1	30	\$58.85	055554	00085012330
0000797	NEW	M	H	31	12/20/2000	AN4423536	CLARITIN	10MG	30	\$50.61	055554	00085004580
0000798	NEW	M	H	31	12/20/2000	AN4423536	COTRISONE	20MG	45	\$53.83	055554	00085009240
0000798	NEW	M	H	31	12/20/2000	AN4423536	ACCUTANE	20MG	60	\$344.50	055554	00004001594
0000792	NEW	M	H	44	12/20/2000	AN2893469	ELOVENT AER	220MC	13	\$83.52	055554	00173004950

97
98

0000791	NEW	M	H	44	12/20/2000	AN2893469	VANCENASE AQ SPR	084%	19	\$48.06	055554	000850104901
0000790	NEW	M	H	44	12/20/2000	AN2893469	CLARTIN TAB	10MG	30	\$61.22	055554	000550045806
0000794	NEW	M	H	44	12/20/2000	AN2893469	PATANOL SOL	0.1%	5	\$50.32	055554	000850027105
0000847	NEW	F	C	9	12/28/2000	AD2557821	CLARTIN SYP	10/10	240	\$57.85	055554	000850122301
0000851	NEW	F	C	9	12/28/2000	AD2557821	AK-SPORE SUS	1% OT	10	\$6.50	055554	174780023611
0000849	NEW	F	C	9	12/28/2000	AD2557821	PATANOL SOL	0.1%	5	\$50.32	055554	000850027105
0000848	NEW	F	C	9	12/28/2000	AD2557821	AUGMENTIN SUS	250/5	150	\$81.28	055554	000280609022
0000850	NEW	F	C	9	12/28/2000	AD2557821	ELOCON LOT	0.1%	60	\$38.19	055554	000850085402
0000840	NEW	M	H	40	12/26/2000	BD3135820	CLARTIN TAB	10MG	30	\$49.22	055554	000850045806
0000822	NEW	M	H	40	12/26/2000	BD2135820	PREVACID CAP	30MG	30	\$68.92	055554	003000304813
0000891	NEW	M	H	51	12/27/2000	AN7636288	LIVOSTIN SUS	0.05%	10	\$50.37	055554	587880081010
0000875	NEW	M	H	51	12/27/2000	AN7636288	UPITOR TAB	40MG	30	\$88.20	055554	000710015723
0000876	NEW	M	H	51	12/27/2000	AN7636288	PREVACID CAP	15MG	60	\$197.01	055554	003000154130
0000877	NEW	M	H	51	12/27/2000	AN7636288	CEFTIN TAB	500MG	28	\$178.16	055554	001730039400
0000878	NEW	M	H	51	12/27/2000	AN7636288	DIPROLENE AF CRE	0.05%	50	\$59.70	055554	000850051704
0000879	NEW	M	H	51	12/27/2000	AN7636288	IPRAN-4500 CAP		120	\$31.07	055554	001150700401
0000880	NEW	M	H	51	12/27/2000	AN7636288	LOTREL CAP	2.5-1	30	\$41.58	055554	000830225530
0000870	NEW	M	C	16	12/27/2000	BD0914590	CLARTIN-D TAB	10-24	30	\$67.12	055554	000850123301
0000889	NEW	M	C	16	12/27/2000	BD0914590	ELOCON OIN	0.1%	45	\$29.90	055554	000850037002
0000868	NEW	M	C	16	12/27/2000	BD0914590	MEBENDAZOLE CHW	100MG	6	\$22.34	055554	000830810729
0000874	NEW	M	C	16	12/27/2000	BD0914590	AUGMENTIN TAB	875MG	20	\$85.23	055554	000280608612
0000873	NEW	M	C	16	12/27/2000	BD0914590	PATANOL SOL	0.1%	5	\$48.32	055554	000850027105
0000872	NEW	M	C	16	12/27/2000	BD0914590	TRETINOL CRE	0.025	45	\$38.55	055554	004720011745
0000827	NEW	M	H	38	12/28/2000	AN8718005	CLARTIN TAB	10MG	30	\$46.22	055554	000850045806
0000828	NEW	M	H	38	12/28/2000	AN8718005	VANCENASE AQ SPR	084%	19	\$38.06	055554	000850104901
0000829	NEW	M	H	38	12/28/2000	AN8718005	KETOGONAZOLE TAB	200MG	60	\$87.80	055554	000770170001
0000830	NEW	M	H	38	12/28/2000	AN8718005	DIFLORASONE CRE	0.05%	120	\$117.24	055554	001890024280
0000845	NEW	M	H	35	12/28/2000	AN1063471	LIPITOR	20MG	80	\$154.54	055554	000710015623
0000843	NEW	M	H	35	12/28/2000	AN1063471	FLOVENT	220MG	13	\$81.30	055554	001730048500
0000844	NEW	M	H	35	12/28/2000	AN1063471	AZMACORT	100MG	20	\$47.53	055554	000730000037
0000842	NEW	M	H	35	12/28/2000	AN1063471	FLOXASE	0.05%	16	\$43.50	055554	001730045301
0000838	NEW	F	H	44	12/28/2000	AN7836288	TOBRADEX	0.3-0	10	\$58.50	055554	000850084710
0000841	NEW	F	H	44	12/28/2000	AN7836288	DIFLORASONE DIACE	0.05%	120	\$160.40	055554	001890024380
0000937	NEW	F	H	44	12/28/2000	AN7836288	DIPROLENE AF	10.05%	50	\$58.87	055554	000850051704
0000939	NEW	F	H	44	12/28/2000	AN7836288	MEBENDAZOLE	100MG	6	\$23.27	055554	000830910729
0000940	NEW	F	H	44	12/28/2000	AN7836288	LAMISIL	250MG	30	\$190.50	055554	000780017915
0000936	NEW	F	H	44	12/28/2000	AN7836288	ACUTANE	20MG	60	\$352.50	055554	000040016849
0000922	NEW	M	H	54	12/28/2000	AN1063471	CLARTIN TAB	10MG	30	\$54.22	055554	000850045806
0000925	NEW	M	H	54	12/28/2000	AN1063471	SINGULAR TAB	10MG	30	\$56.90	055554	000800011731
0000923	NEW	M	H	54	12/28/2000	AN1063471	PRLOSEC CAP	20MG	30	\$97.55	055554	001860074231
0000921	NEW	M	H	54	12/28/2000	AN1063471	FLOXASE SPR	0.05%	16	\$38.63	055554	001730045301
0000924	NEW	M	H	54	12/28/2000	AN1063471	CEFTIN TAB	250MG	20	\$63.40	055554	001730036700
0000975	NEW	M	H	53	12/29/2000	BD2415878	DIFLORASONE OIN	0.05%	180	\$188.02	055554	001680024360
0000976	NEW	M	H	29	12/29/2000	AN6959841	AUGMENTIN	875-1	20	\$77.26	055554	000280608612
0000959	NEW	F	S	31	12/29/2000	AN6959841	MICRONOR TAB	DALP	28	\$71.24	055554	000620141101
0001111	NEW	M	H	42	1/1/2001	AT1263211	LOTIRISONE CRE		45	\$33.80	055554	000850092402
0001112	NEW	M	H	42	1/1/2001	AT1263211	ALLEGRA CAP	60MG	60	\$39.73	055554	000880110247
0001109	NEW	M	H	42	1/1/2001	AT1263211	VANCENASE AQ SPR	084%	19	\$38.06	055554	000850104901

012
96

0001112	NEW	M	H	42	1/12/2001	AT1263211	ACIPHEX TAB	20MG	30	\$83.88	055554	628590024330
0001164	NEW	M	S	80	1/22/2001	BH2642791	PRIOSEC CAP	20MG	30	\$87.55	055554	001860074231
0001162	NEW	M	S	80	1/22/2001	BH2642791	SEREVENT AER	RF 21	13	\$49.04	055554	001730046500
0001163	NEW	M	S	80	1/22/2001	BH2642791	AZMACORT AER	100MG	20	\$42.86	055554	000750006937
0001130	NEW	M	H	40	1/22/2001	AP7029805	CELEBREX CAP	200MG	30	\$31.18	055554	000250152531
0001129	NEW	M	H	40	1/22/2001	AP7029805	TOBRADEX SUS	OP	10	\$46.85	055554	000450054710
0001128	NEW	M	H	40	1/22/2001	AP7029805	AUGMENTIN TAB	875MG	20	\$75.23	055554	000280060812
0001183	NEW	F	H	38	1/2/2001	BH2642791	ACCUTANE	40MG	80	\$385.50	055554	000400015849
0001178	NEW	F	H	38	1/2/2001	BH2642791	BACTROBAN	2%	30	\$38.43	055554	000280152725
0001180	NEW	F	H	38	1/2/2001	BH2642791	VANCENASE AQ	84MG	18	\$45.72	055554	000850104801
0001182	NEW	F	H	38	1/2/2001	BH2642791	MEBENDAZOLE	100MG	6	\$23.27	055554	00030910729
0001184	NEW	F	H	38	1/2/2001	BH2642791	BENZAMYCIN	47	47	\$76.58	065554	000460051046
0001181	NEW	F	H	38	1/2/2001	BH2642791	ULTRAVATE	0.05%	50	\$52.55	055554	000720145050
0001176	NEW	F	H	38	1/2/2001	BH2642791	SEREVENT	25MG	13	\$56.80	055554	001730046500
0001182	NEW	M	H	42	1/2/2001	BH2565349	DESOWEN LOT	0.05%	80	\$13.69	055554	002890378502
0001191	NEW	M	H	42	1/2/2001	BH2565349	ULTRAVATE OIN	0.05%	50	\$42.73	055554	000720145050
0001193	NEW	M	H	42	1/2/2001	BH2565349	ZOCOR TAB	20MG	30	\$88.41	055554	0000600074081
0001190	NEW	M	H	42	1/2/2001	BH2565349	ACCUTANE CAP	40MG	80	\$377.00	055554	000400015649
0001248	NEW	M	H	41	1/4/2001	BH2565349	ACCUTANE CAP	20MG	80	\$358.00	055554	000040018949
0001253	NEW	M	H	41	1/4/2001	BH2565349	DOVONEX OIN	0.005	80	\$77.74	055554	000720244005
0001252	NEW	M	H	41	1/4/2001	BH2565349	ZOLOFT TAB	50MG	80	\$118.43	055554	000480490068
0001249	NEW	M	H	41	1/4/2001	BH2565349	BENZAMYCIN GEL		47	\$78.22	055554	000660051046
0001247	NEW	M	H	41	1/4/2001	BH2565349	TRETINOIN CRE	0.025	45	\$37.55	055554	004720011745
0001250	NEW	M	H	41	1/4/2001	BH2565349	PATANOL SOL	0.1%	5	\$50.32	055554	000650027105
0001260	NEW	M	H	32	1/6/2001	AN2105282	AVELOX	400MG	5	\$25.19	055554	000280058168
0001275	NEW	M	H	32	1/6/2001	AN2105282	CLARITIN-D 24 HOU	240-1	30	\$56.85	055554	000850123301
0001333	NEW	M	H	31	1/6/2001	BD0368873	ACULAR SOL	0.5%	10	\$60.60	055554	000230218110
0001330	NEW	M	H	31	1/6/2001	BD0368873	KETOCONAZOLE TAB	200MG	60	\$91.60	055554	008770170001
0001329	NEW	M	H	31	1/6/2001	BD0368873	AUGMENTIN TAB	875MG	20	\$76.23	055554	000280060812
0001331	NEW	M	H	31	1/6/2001	BD0368873	TRETINOIN CRE	0.025	45	\$34.55	055554	004720011745
0001332	NEW	M	H	31	1/6/2001	BD0368873	ACCUTANE CAP	20MG	80	\$347.00	055554	000400016949
0001286	NEW	M	H	59	1/6/2001	BP0697736	CLARITIN TAB	10MG	30	\$49.22	055554	000950045808
0001318	NEW	M	H	32	1/6/2001	AN1063471	BACTROBAN	2%	30	\$30.18	055554	000280152725
0001319	NEW	M	H	32	1/6/2001	AN1063471	ACYCLOVIR	800MG	80	\$70.82	055554	003840289001
0001302	NEW	M	H	32	1/6/2001	BN2364590	CLEOCIN T	1%	80	\$34.31	055554	000800331101
0001322	NEW	M	H	32	1/6/2001	AN1063471	CELEBREX	200MG	80	\$118.12	055554	000250152531
0001301	NEW	M	H	32	1/6/2001	BN2964590	DYNACIN	75MG	80	\$110.09	055554	992070048910
0001321	NEW	M	H	32	1/6/2001	AN1063471	CIPRO HC	0.2-1	10	\$43.50	055554	000850853110
0001317	NEW	M	H	32	1/6/2001	AN1063471	MEBENDAZOLE	100MG	8	\$23.11	055554	000830910729
0001320	NEW	M	H	32	1/6/2001	AN1063471	TAZORAC	0.05%	100	\$178.38	055554	000230633510
0001286	NEW	M	H	54	1/6/2001	BN321556	CLARITIN-D TAB	10-24	30	\$82.12	055554	000650123301
0001366	NEW	F	C	13	1/6/2001	BL5518884	ACCUTANE CAP	10MG	80	\$318.88	055554	000400015549
0001367	NEW	F	C	13	1/6/2001	BL5518884	DIPROLENE AF CRE	0.05%	60	\$81.70	055554	000650051704
0001368	NEW	F	C	13	1/6/2001	BL5518884	LIPRAM 4500 CAP		100	\$24.88	055554	00115070040

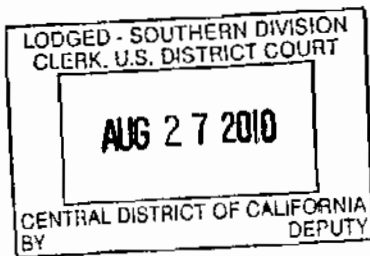
APPENDIX D

THUAN HUY HA

Reg# 18103-112

PO Box 7001 / Building A4C

Taft, CA 93268



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

FILED
2010 AUG 31 PM 4:04
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA

SACVIO-1314 AHS

UNITED STATES of AMERICA,
Plaintiff,

v.

THUAN HUY HA,
Defendant.

Case No. SA CR 03-029 AHS

MOTION TO VACATE THE CONVICTION
UNDER 28 USC §2255

Defendant THUAN HUY HA "defendant Ha" acting pro se, is
hereby, submitting the MOTION TO VACATE THE CONVICTION under §2255.

Respectfully Submitted,

Date Submitted

August 24, 2010

THUAN HUY HA, pro se defendant

I.STATEMENT OF FACTS

The case revolved around the monies that the government charged defendant Ha, owner of Ha Pharmacy, N.A.B.P. number 0570172, located in Garden Grove, California, obtained from pharmacy benefit management companies including Ecked, RxAmerica, United Provider Service, Aetna, Caremark, BlueCross, Advance PCS, BlueShield ("PBM"), under false billing claims submitted to these alleged victims PBM, though, NOT based on the actual evidence of billing record from these alleged victims PBM, but on the computer printouts Exhibits 3&8,4,9, 1,2,5,6,7 respectively with PBM above, created by FBI agent Vieley,

1. The Actual Evidence Of Billing Record From Alleged Victims PBM Was Not Only Withheld, But Tampered With

Jury trial commenced on February 24, 2004. To prove its case, on February 25, and March 9 of 2004, FBI agent Vickey Vieley testified that she received the actual evidence of billing record in both forms: the hard copy along with the computer diskette from alleged victims PBM (REPORTER'S TRANSCRIPT (RT); 2/25/04; 74, 81, 86, 89; 3/9/04; 149, 152, 155, 157, 161 respectively with PBM above).

The government never presented to the jury the actual evidence of billing record from alleged victims PBM, which was already available in the hard copy form FBI agent Vieley received from these alleged victims PBM. Instead, the government presented to the jury FBI agent Vieley's own created billing record version - the computer printouts Exhibits 3&8,4,9,1,2,5,6,7 respectively with PBM above (RT; 2/25/04; 74-92; 3/9/04; 149-162).

On direct, FBI agent Vieley testified that, she created all her Exhibits 3&8,4,9,1,2,5,6,7 in the "same manner", "same rationale" from her personal computer database: after she selected only certain data fields of the actual evidence of billing record she received from alleged victims PBM, she added her own titles on the top, her own total amount paid on the bottom, then she printed out her Exhibits 3&8,4,9,1,2,5,6,7 with the new current billing record dates of "2-13-2004". The rest data fields of the actual evidence of billing record FBI agent Vieley received from alleged victims PBM were left out as FBI agent Vieley claimed "not really important" to her Exhibits 3&8,4,9,1,2,5,6,7 she created, and as the counsel for the government, Mr. Lawrence Kole AUSA, claimed "not necessary to identify":

- "It really wasn't important to our investigation, and they become so voluminous that I can't work the - - spreadsheets get so big and the writing gets so little that I can't see it" (RT;2/25/04;82).
- "Just for space, and it was redundancy" "too wide to fit on the page" (RT;2/25/04;87).
- "Because it just - - there's too many fields that I can't put them all on one page and I don't need them all for my reports" (RT;2/25/04;90).
- "No. I omitted several fields because they were so large" (RT;3/9/04;149).
- "Items that you chose not to include ones that were not really necessary to identify particular prescription and who supposedly got it" (RT;3/9/04;150).
- "extra information wasn't necessary to identify the particular prescriptions that were presented here." (RT;3/9/04;153).

- "make that decision in the same manner; leaving out items that you felt were not necessary to identify particular prescriptions on this document"
(RT;3/9/04;156).
- "here, as with others, just omit items that were not necessary to identify; such as the dates, the drugs, the doctors, patients"
(RT;3/9/04;158).
- "make that decision using the same rationale that we've gone already on the other printouts"
(RT;3/9/04;161).

On cross-examination, FBI agent Vieley testified that, the data fields of the actual evidence of billing record from alleged victims PBM she left out were:

Q. What were the fields that you left out?

A. I left out N.A.B.P. number. I would leave out ...
(RT;2/25/04;136).

2. The Actual Evidence Of Billing Record From Alleged Victims PBM Was Received From Department Of Justice

On June 6,2009, under Freedom of Information/Privacy Act of 1974, defendant Ha requested from DOJ the actual evidence of billing record from alleged victims PBM that FBI agent Vieley received in the hard copy form along with the diskette.

On June 8,2010, DOJ released the 40 pages of the actual evidence of billing record from alleged victims PBM defendant Ha requested (Please See Attach Documents).

II.
ARGUMENT

Defendant Ha contends that the jury verdict against defendant Ha must result in a reversal since the government not only withheld, but tampered with the actual evidence of billing record from alleged victims PBM to create false evidence of billing record - the computer printouts Exhibits 3&8,4,9,1,2,5,6,7 against Ha Pharmacy to prosecute defendant Ha which blatantly violated defendant Ha's due process right.

STANDARD OF REVIEW

- 1) "Due process requires that, the government disclose material evidence favorable to defendant, suppression of that evidence by prosecution will result in a reversal of the conviction." (Brady v. Maryland, 10 L.Ed.2d 215, 373 US 83 (1963))
- 2) "Judgment of conviction was invalid for violation of the Fourteenth Amendment, because it was obtained by the knowing use of false evidence." (Miller v. Pate, 17 L.Ed.2d 690, 386 US 1 (1967))

Since the actual evidence of billing record from alleged victims PBM never have been presented to the jury, the jury throughout the trial, never saw and never knew what the actual content of the actual evidence of billing record from alleged victims PBM was. The only evidence of billing record the jury saw and knew was the computer printouts Exhibits 3&8,4,9,1,2,5,6,7 created by FBI agent Vieley with the conclusory foundation established by FBI agent Vieley herself and the counsel for the government on direct; such as:

- Q. At some point, did you make a comparison between the actual printout, that is Exhibit 3, and the computer-readable data that Eckerd gave to you?
- A. Yes, I did.

- Q. What did you find?
A. I found that the numbers matched, total dollar amounts matched.
Q. And the data appeared to be the same?
A. Appeared to be the same, Yes.
(RT;2/25/04;77).
- Q. In the upper left-hand corner, does it indicate some information about what this document is and what is contained in it?
A. Yes.
Q. What does it say?
A. It says, "REPORT, HA PHARMACYS CLAIMS ITS CLIENTS ALL.
TIME: NOVEMBER 1,1997, THROUGH MAY 31 OF 2000,
FOR N.A.B.P. NUMBER 0570172."
- Q. And did you ever have occasion to learn what - - to what entity that N.A.B.P. number was assigned?
A. It was assigned to HA PHARMACY.
Q. What data fields or data elements are contained in this data?
A. ...
quantity, day supply, check number, post date, total amount due, and the status of the check, status.
Q. And in the status column, there is a letter "P."
Does that refer to it being paid?
A. That's - - Yes. That's what I was told.
(RT;2/25/04;78-79).
- Q. If the entity gave you data that did not have a sum at the end, what did you do?
A. I would just sum the total just to find out what dollar was paid.
(RT;2/25/04;80).
- Q. When you received the data from Eckerd and got a hard copy, did that hard copy have a date in a similar position to this on it?
A. I guess. I believe it did.
Q. It was a different date from this?
A. Yes, It was.
But Eckerd may not have had a date. I can't recall specifically.
(RT;2/25/04;83-84).

However, first, the 40 pages of actual evidence of billing record from alleged victims PBM defendant Ha received from Department of Justice (DOJ) does not indicate any payment have been made to Ha Pharmacy since there is no title, no total amount submitted, no total amount paid, no billing record date, no check number, no status of the check, no status column with a letter "P." the government referred as "paid".

Second, the 40 pages of the actual evidence of billing record from alleged victims PBM defendant Ha received from DOJ does not indicate total amounts paid of more than 14 million dollars (1,601,527.47 + 148,224.96 + 316,778.92 + 138,346.47 + 7,082,745.55 + 3,938,587.33 + 357,294.37 + 363,881.99 + 182,685.31) as the government claimed in the computer printouts Exhibits 3,8,4,9,1,2, 5,6,7 created by FBI agent Vieley (RT;2/25/04;79,84,89,92; 3/9/04; 152,154,157,160,163).

Third, the 40 pages of the actual evidence of billing record from alleged victims PBM defendant Ha received from DOJ, in fact, does not belong to Ha Pharmacy N.A.B.P. number 0570172, but to the pharmacy N.A.B.P number 055554.

Clearly, the government does not have the actual evidence of billing record against Ha Pharmacy from alleged victims PBM at all.

Thus, in order for the government to have evidence of billing record against Ha Pharmacy to present to the jury, FBI agent Vieley tampered with the actual evidence of billing record she received from alleged victims PBM to create her own billing record version - the computer printouts Exhibits 3,8,4,9,1,2,5,6,7 by: leaving out the data field N.A.B.P. number 055554 as she claimed "not really important" to her investigation, and as the counsel for the government claimed "not necessary to identify"; adding her own titles on top with N.A.B.P. number 0570172 to which she claimed "It was assigned to Ha Pharmacy"; adding her own letter "P." in the status column she referred as paid "That's - - Yes. That's what I was told"; adding her own total amounts paid over 14 million dollars

on bottom as she stated "I would just sum the total just to find out what dollar was paid"; then printed out with the current billing record dates of "2-13-2004" from her personal computer. Obviously, with the actual evidence of billing record from alleged victims PBM was withheld from the jury, the government freely testified that "the data appeared to be the same".

Clearly, FBI agent Vieley's own created billing record version - the computer printouts Exhibits 3,8,4,9,1,2,5,6,7 were created in the way of altering the actual evidence of billing record from alleged victims PBM, which boldly violated defendant Ha's due process right, is the false evidence of billing record.

In light of the fact that, with the actual evidence of billing record from alleged victims PBM was withheld from the jury, the jury verdict against defendant Ha was totally rested on FBI agent Vieley's false evidence of billing record - the computer printouts Exhibits 3,8,4,9,1,2,5,6,7 created in violation of defendant Ha's due process right, therefore, under 'Brady' and 'Miller', the jury verdict against defendant Ha must result in a reversal due to prejudice.

III.

CONCLUSION

For reasons setforth, defendant Ha's Motion should be granted.

Date August 24, 2010

Respectfully Submitted,



THUAN HUY HA, the defendant

APPENDIX E

1 ANDRÉ BIROTTE JR.
United States Attorney
2 DENNISE D. WILLETT
Assistant United States Attorney
3 Chief, Santa Ana Branch
LAWRENCE E. KOLE (Cal. Bar No. 141582)
4 Assistant United States Attorney
411 West Fourth Street, Suite 8000
5 Santa Ana, California 92701
Telephone: (714) 338-3594
6 Facsimile: (714) 338-3708
Email: larry.kole@usdoj.gov
7

8 Attorneys for Plaintiff
United States of America

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 THUAN HUY HA, et al.,

16 Defendants.

) Case No. SA CV 10-1314-AHS

) Sentenced under
) Case No. SA CR 03-29-AHS

) OPPOSITION TO DEFENDANT
) THUAN HUY HA'S 8/31/10 MOTION
) TO VACATE CONVICTION UNDER
) 28 U.S.C. § 2255

) [Not set for oral argument per 9/14/10
) Court Order]

17
18
19 Plaintiff United States of America hereby submits its opposition to
20 defendant Thuan Huy Ha's Motion to Vacate Conviction under 28 U.S.C. § 2255,
21 which was filed on August 31, 2010.

22 DATED: November 5, 2010.

23 ANDRÉ BIROTTE JR.
United States Attorney
24 DENNISE D. WILLETT
Assistant United States Attorney
Chief, Santa Ana Office
25

26 /S/
LAWRENCE E. KOLE
27 Assistant United States Attorney

28 Attorneys for Plaintiff
United States of America

I.**INTRODUCTION AND PROCEDURAL BACKGROUND**

Defendant Thuan Huy Ha was indicted on 24 counts of mail fraud and three counts of money laundering on February 5, 2003. On August 13, 2003, a First Superseding Indictment ("FSI") was returned that charged Ha with 18 counts of mail fraud and 11 counts of money laundering. On February 24, 2004, a jury trial on the FSI commenced and Ha was convicted on March 26, 2004 of all 29 counts of mail fraud and money laundering with which he was charged. On October 20, 2006, the court sentenced Ha to 168 months imprisonment. Ha filed a Notice of Appeal on October 24, 2006. After numerous continuances, Ha filed his opening brief on appeal on November 23, 2009 and oral argument was heard by the Ninth Circuit on July 12, 2010. On July 28, 2010, the Court of Appeals issued an order affirming Ha's conviction and sentence. On August 31, 2010, Ha filed the instant motion to vacate his conviction under 28 U.S.C. § 2255 motion. Ha remains in custody serving his sentence.

II.**ARGUMENT****A. Summary of Argument**

In his § 2255 Motion, Ha argues that his constitutional Due Process rights were impaired because the government introduced evidence at trial from pharmacy benefit managers ("PBM") that allegedly had been altered by the government. This claim is frivolous for several reasons. First, Ha waived this argument by failing to advance it as a basis for his appeal. In addition, Ha cannot show the cause and prejudice that would be required to maintain a claim in a § 2255 Motion that has been waived on appeal. Although Ha did not receive the document provided to him in response to his Freedom of Information Act ("FOIA") request until after his appeal had been briefed, Ha has been well aware of his claim of evidence "alteration" for years and has previously raised it before this court.

1 Furthermore, Ha was not prejudiced in any way by the failure to assert a patently
2 frivolous allegation of "alteration."

3 Even if Ha were able to satisfy the cause and prejudice standard, or were
4 found not to be required to meet it, his § 2255 Motion would fail nevertheless on
5 the merits. A comparison of the original PBM data attached to the § 2255 Motion
6 with the version of that data that was introduced at trial plainly shows that the data
7 was not substantively altered. As the government presented accurate data at trial
8 that matched that given by the PBM, Ha's Due Process rights were unaffected.
9 Thus, there was no constitutional deficiency with his trial and his conviction
10 should remain intact.

11 **B. Ha Waived His Claim by Not Raising it on Appeal.**

12 Ha's claim of purported alteration of evidence has been waived by his
13 failure to assert it in his appeal. The failure to raise a claim on direct review by
14 appeal constitutes a procedural default, which causes the claim to be waived. See
15 United States v. Braswell, 501 F.3d 1147, 1150 (9th Cir. 2007); citing Bousley v.
16 United States, 523 U.S. 614, 621, 118 S. Ct. 1604, 140 L. Ed.2d 828 (1998). In
17 his appeal, Ha challenged his conviction and sentence by asserting the following
18 purported errors: (1) impanelment of a juror who was allegedly biased and
19 supposedly had been convicted of a felony, (2) conviction on the money
20 laundering counts without a showing that they were based on profits obtained
21 from the scheme, (3) calculation of an increased offense level by treating the
22 money laundering and mail fraud convictions as separate groups of offenses, (4)
23 upward adjustment of Ha's offense level based on obstruction of justice. Exhibit
24 M-1 hereto, Excerpts of Appellant's Opening Brief at 3-4 (for clarity of reference,
25 the government has used the same numbers that were previously assigned to trial
26 exhibits that are attached to this opposition; documents that are attached hereto but
27 that were not exhibits at trial are designated with a prefix "M-" (for "motion")
28 followed by a sequential number). None of these issues raised on appeal included

Ha's instant argument of "alteration" of evidence. By failing to assert this alleged defect on direct appeal, Ha has procedurally defaulted this issue and it may not be raised now for the first time on collateral review.

C. Ha Cannot Show Cause and Prejudice.

Although a procedural default may be cured if a defendant can show cause and prejudice, Ha's § 2255 Motion fails because he has not satisfied this standard. The burden rests on the defendant to establish that cause and prejudice exist to excuse his procedural default. *See Bousley*, 523 U.S. at 622; *Braswell*, 501 F.3d at 1150. Because Ha does not even acknowledge his failure to raise this issue on appeal, much less demonstrate that he has cause and has suffered prejudice to excuse this failure, his § 2255 Motion should be denied.

1. Ha Fails to Demonstrate Cause for His Procedural Default.

Even if Ha's § 2255 Motion were not flawed by his failure to attempt to carry his burden, it still could not succeed because he neither had cause for his default nor suffered prejudice. "Cause" consists of a reason that prevented the defendant from being able to assert an issue on appeal. *See Braswell*, 501 F.3d at 1151. The Ninth Circuit noted that an example of such a proper cause for excusing a procedural default in a § 2255 motion would be "a new legal or factual basis that was unavailable at the time of direct appeal." *Id.* Similarly, in applying this standard in the analogous context of habeas review of a state court conviction, the Supreme Court said that a defendant who received effective assistance of counsel must "show that some objective factor external to the defense impeded counsel's efforts." *Murray v. Carrier*, 477 U.S. 478, 488, 106 S. Ct. 2639, 91 L. Ed.2d 397 (1986).

Ha's contention of purported "alteration" of evidence cannot meet these standards. As Ha sets forth in the § 2255 Motion, Federal Bureau of Investigation ("FBI") Special Agent ("SA") Vicky Vieley described in detail in her trial testimony in 2004 the process by which she obtained original data from the PBMs

1 and used it to create appropriate exhibits, which exhibits were introduced during
2 the trial. See § 2255 Motion at 1-3. Thus, there was nothing about the nature of
3 the trial exhibits that contained the PBM data or the manner in which SA Vieley
4 prepared them that was unknown or unavailable to Ha at trial. On the contrary, Ha
5 was fully aware of this issue at the time of his trial in 2004, which was far in
6 advance of the briefing and argument of his appeal in 2009 and 2010. See Ex. M-
7 1, cover page; Exhibit M-2, Memorandum Disposition dated 7/28/10 at 1.

8 Not only was Ha cognizant of these facts that underlie his instant motion, he
9 was also contemplating this very argument well before his appeal. In his motion
10 for bail pending appeal filed December 21, 2006, Ha made the same contention
11 advanced herein that SA Vieley had "altered" the PBM data. See Exhibit M-3,
12 Motion for Bail Pending Appeal at unnumbered pages 4-5. As the purported
13 "alterations" were plainly disclosed during trial and Ha utilized those facts to seek
14 bail pending appeal, they cannot constitute a new legal or factual basis unavailable
15 at the time of appeal nor was there any external factor that impeded Ha's counsel
16 from raising this issue on appeal. Therefore, Ha cannot establish cause for his
17 procedural default, which defeats his motion.

18 Ha might argue that he did not have the original PBM data itself when his
19 appeal was briefed and, based thereon, claim that the document provided pursuant
20 to FOIA constitutes a new factual basis that was unavailable. Such a contention
21 would lack merit, though, because the PBM data does not reveal any facts in
22 addition to those of which Ha was already aware from SA Vieley's testimony.

23 A comparison of the PBM data attached to the § 2255 Motion with the trial
24 exhibits shows that the data attached to the § 2255 Motion came from PBM
25 Advance PCS. Claims submitted to Advance PCS were set forth in Trial Exhibit
26 6, a copy of which is attached hereto. Comparing the FOIA data with Exhibit 6, it
27 is apparent that they contain the same claims. Both start with two claims for
28 prescriptions filled on 9/9/2000 for the drugs Cefzil and Zithromax for which

1 \$173.86 and \$27.56 were paid, respectively. § 2255 Motion at 14 of 56; Ex. 6 at
 2 6-1. Both continue chronologically through identical prescriptions, ending with
 3 two prescriptions filled on 5/20/2001 for Cefaclor and Prevacid for which \$30.81
 4 and \$172.88 were paid, respectively. § 2255 Motion at 53 of 56; Ex. 6 at 6-45.
 5 As trial Exhibit 6 lists claims by Care Pharmacy to Advance PCS, it is apparent
 6 that the data provided to Ha pursuant to FOIA is also a list of Care Pharmacy
 7 claims to Advance PCS.

8 Furthermore, all of the prescription and patient data in Trial Exhibit 6 was
 9 derived from the original PBM data. Only six data elements in the original data,
 10 none of which were necessary to identify and describe the fraudulent prescription
 11 claims made by defendants, were omitted in Exhibit 6. The only fields that were
 12 added to Exhibit 6 were the name of the alleged prescribing doctor and a grand
 13 total of claims paid at the end. However, the original data already indicated the
 14 identity of the doctors, as it contained the prescribing doctors' DEA numbers. In
 15 Exhibit 6, SA Vieley merely added a column showing the doctor's name that
 16 corresponded to each DEA number. Exhibit M-5, Reporter's Transcript ("RT")
 17 3/9/04 at 159. The following is a comparison of the data fields contained in the
 18 original data and in Exhibit 6¹:

26 ¹It should be noted that, in Exhibit 6, the sequence of the data columns is
 27 somewhat different from that in the original data. For example, in Exhibit 6, the
 28 fill date was moved to be the first column, while it is in the sixth column in the
 original data. In the following table, the columns in the original data are listed
 with the column in Exhibit 6 that contains the corresponding type of data, even if
 the column in Exhibit 6 is in a different location in that document.

<u>Label of Column in Original Data</u>	<u>Data Contained in Column</u>	<u>Label of Column in Exhibit 6</u>	<u>Data Contained in Column in Ex. 6</u>
rx	Prescription number	None	Not included
new refill	New prescription or refill	None	Not included
sex cd	Gender of patient	Sex	Gender of Patient
ptnt type	Type of patient	None	Not included
ptnt age	Age of patient	Age	Age of patient
fill date	Date prescription was filled	Fill Date	Date prescription was filled
md nb	DEA number for prescribing doctor	MD DEA#	DEA number for prescribing doctor
drug name	Name of prescribed drug	Drug Name	Name of prescribed drug
rug streng	Strength of drug prescribed	Strength	Strength of drug prescribed
rx qty	Quantity of drug in prescription	Qty	Quantity of drug in prescription
tal paid am	Amount paid for prescription	Amt Paid	Amount paid for prescription
pmcy nb	Pharmacy Number	None	Not included
ndc cd	NDC Code for drug	None	Not included
insrd name	Name of patient	Insured Name	Name of patient
carrier group	Carrier Group	None	Not included
None	Not included	MD DEA #	Name of prescribing doctor

1 As is obvious from a comparison of the documents, Exhibit 6 included all of
2 the information pertinent to this case, such as the date of the prescription, the drug,
3 the patient, the doctor, and the amount that was paid for the prescription. Because
4 Ha had all of this essential information at the time of trial, when Exhibit 6 was
5 introduced, he was not prevented from raising any challenges based on this data in
6 his appeal and his receipt of the original PBM data did not create a new factual
7 basis to attack his conviction. Accordingly, Ha cannot make the necessary
8 showing of cause to excuse his procedural default and, as a result, his § 2255
9 Motion should be denied.

10 **2. Ha Cannot Show That He Suffered Any Prejudice.**

11 Because Ha fails to establish cause for his procedural default, his motion
12 should be denied without the need to reach the prejudice criterion. See Braswell,
13 501 F.3d at 1150 (prejudice prong considered only "[i]f a petitioner succeeds in
14 showing cause"). Nevertheless, Ha also cannot satisfy the prejudice requirement,
15 which "requires demonstrating 'not merely that the errors at . . . trial created a
16 possibility of prejudice, but that they worked to [defendant's] actual and
17 substantial disadvantage, infecting his entire trial with error of constitutional
18 dimensions.'" Id., citing United States v. Frady, 456 U.S. 152, 170, 102 S. Ct.
19 1584, 71 L. Ed.2d 816 (1982). Ha incurred no disadvantage from the use of the
20 trial exhibits rather than the original PBM data. In the § 2255 Motion, Ha asserts
21 several purported defects in the trial exhibits and in the PBM data itself, and also
22 claims that the data was altered in the trial exhibits. However, his assertions are
23 incorrect as the data was not altered, and any differences in the presentation of the
24 data in the trial exhibits consisted merely of formatting, not substance.

25 Ha asserts that (1) the original PBM data did not show the total amount
26 submitted to the PBM by the pharmacy, the total amount paid by this particular
27 PBM or by all of the PBMs to the pharmacy, the date of billing, the number of the
28 checks sent, or that payment was made to the pharmacy; (2) the original PBM data

1 relates to a different pharmacy than Ha Pharmacy; and (3) SA Vieley altered the
2 original data received from the PBMs. § 2255 Motion at 5-7. Contrary to his
3 allegations, both the original PBM data and Exhibit 6 do show that payment was
4 made and to whom it was made, and the original PBM data contained the
5 information necessary to determine the total amount paid. The eleventh column in
6 the PBM data contains the paid amount for each prescription. § 2255 Motion at
7 14 of 56. This column shows the amount paid by Advance PCS, the PBM, to the
8 pharmacy. Although the grand total of these payments is not displayed in the
9 original data, it is easily derivable by merely adding up the individual payments
10 shown. SA Vieley did exactly that by adding a sum function to this data in Exhibit
11 6, which shows a grand total of \$363,881.99 paid to the pharmacy in the last row
12 (that total amount also matches the total that Ha acknowledges was paid by one of
13 the PBMs, see § 2255 Motion at 6). Ex. 6 at 6-45.

14 While it is correct that the PBM data does not show the amount submitted
15 by the pharmacy, the date that those claims were made, or the number of the
16 checks sent in payment of the claims, that is irrelevant because the government
17 introduced evidence of those facts at trial in other exhibits. See Exhibit 67, Copy
18 of check from Advance PCS to Care Pharmacy dated 3/9/2001; Exhibit 68,
19 Advance PCS Remittance Advice for claims received by 2/23/2001 (listing claims
20 paid by the check displayed in Exhibit 67, including the amount claimed by the
21 pharmacy and time period during which the claims were made); Exhibit 69, Copy
22 of check from Advance PCS to Care Pharmacy dated 4/6/2001; Exhibit 70,
23 Advance PCS Remittance Advice for claims received by 3/23/2001 (listing claims
24 paid by the check displayed in Exhibit 69, including the amount claimed by the
25 pharmacy and time period during which the claims were made). Ha's statement
26 that the PBM data does not contain the total paid to the pharmacy by all of the
27 PBMs, while true, is also irrelevant because a particular PBM would not possess
28 the data of the other PBMs that would be needed to derive such a total amount.

1 Furthermore, the absence of these items from the original PBM data shows that
2 they were not omitted from Exhibit 6 due to any "alteration" by SA Vieley, but
3 rather because the PBM did not include them in its data in the first place.

4 Ha states that the pharmacy number included in the original PBM data,
5 055554, is different from Ha Pharmacy's number (0570172) and, as a result, he
6 claims that the PBM data is not a record of payment to Ha Pharmacy. § 2255
7 Motion at 6. This assertion, while true, is disingenuous and misleading because
8 (1) Ha was convicted of fraud based on claims paid to both Ha Pharmacy and Care
9 Pharmacy; (2) it was Care Pharmacy, not Ha Pharmacy, that was enrolled with
10 Advance PCS; (3) the payments from Advance PCS went to Care Pharmacy, not
11 Ha Pharmacy; and (4) the pharmacy number to which Ha refers, 055554, is the
12 number for Care Pharmacy. See First Superseding Indictment at 8-13; Ex. M-2 at
13 3 (noting that Ha and his co-defendant My-Huong Thi Hoang jointly operated
14 Care Pharmacy); Exhibit 189, PCS Health Systems Membership Enrollment Form
15 for Care Pharmacy (showing pharmacy number 05-5554-8); Exhibit 192,
16 AdvancePCS Network Enrollment Form (showing pharmacy number 055554-8).

17 Finally, Ha presents no evidence that SA Vieley "altered" the PBM data. In
18 the excerpts of testimony cited in the § 2255 Motion, SA Vieley stated that she did
19 not alter or change any of the actual PBM data and explained that the
20 modifications made to that data in the trial exhibits consisted merely of selecting
21 which categories of data to include in exhibits, summing individual items to derive
22 totals, replacing identifying numbers with names in order to make the reports that
23 she generated clearer and easier to read and understand, and adding clarifying
24 headings and labels. She repeatedly testified that she did not alter the underlying
25 data and that she confirmed that the printouts that she generated accurately
26 reflected the data provided by the PBMs. See Exhibit M-4, RT 2/25/04 at 75, 77,
27 85, 87-88, 91, 138; Ex. M-5, RT 3/9/04 at 149-50, 156, 158 & 162. These
28 activities merely organized and aided the presentation of the underlying data from

the PBMs, which was left unchanged. Ha's contention that SA Vieley altered the PBM data lacks any factual support. Ha obviously did not suffer any prejudice by not advancing a frivolous argument of evidence "alteration" in his appeal. Therefore, his procedural default of this issue may not be excused and his § 2255 Motion should be denied.²

D. Even If Ha Were Entitled to a Consideration of the Merits, His Claim Fails Because the Data Plainly Was Not Altered.

Even if the court were to find that Ha had demonstrated cause and prejudice, or that he did not need to do so because (1) his claim could not have been presented on appeal without further development of the facts (such as Ha's receipt of the FOIA response)³ or (2) he had shown a likelihood that he was actually innocent⁴, his § 2255 Motion should be denied nevertheless. The discussion of the PBM data above demonstrates that the data included in the trial exhibits was not substantively altered. As Ha's conviction was therefore based on accurate, reliable data, no Due Process violation occurred at his trial. Therefore, Ha has not established any grounds upon which to have his conviction vacated. Accordingly, the § 2255 Motion should be denied.

III.

CONCLUSION

For all of these reasons, Ha's Motion should be denied.

²It should be noted as well that Ha's co-defendant, My-Huong Thi Hoang, advanced the same argument of purported "alteration" of the PBM data in her motion under § 2255 and the court found this contention to lack merit. See Exhibit M-6, Court's Order dated 5/12/2008, at 3.

³When an issue cannot be adjudicated on appeal without further factual development, a defendant need not show cause and prejudice. Bousley, 523 U.S. at 621.

⁴In the § 2255 Motion, Ha makes no claim that he was actually innocent of the charges. On the contrary, his motion is limited to a challenge to the quality of the evidence at his trial. Where a defendant fails to assert that he is actually innocent, much less show a likelihood of innocence, he cannot avoid the cause and prejudice requirement. Braswell, 501 F.3d at 1150.

APPENDIX F

08/30/2001 11:07 AM

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER



AdvancePCS™

AdvancePCS
P.O. Box 52113
Phoenix, Arizona 85072-2113

DATE: 03-09-2001

CHECK NO: 5537386

73-426
839

VOID AFTER 180 DAYS

Bank One, NA 0710
Chicago, IL
Payable Through Republic Bank
Shelbyville, Kentucky

AMOUNT

PAY

EXACTLY *****14,077 DOLLARS AND 10 CENTS

*****14,077.10

Pay to the
Order of

05 5554
CARE PHARMACY
14150 BROOKHURST ST
GARDEN GROVE CA 928434657

John Connolly
Brian Thomas

⑈05537386⑈ ⑈083904262⑈

⑈0001407710⑈

083000593

1219 1220 001 03/16/01

⑈1220005614⑈
1000 N TOPPLE LA, CA 22
03/15/01 0932127351 CA90

3200160186

54066459

09-003-1790 1P02
3/16/01

LINK ME
IMAGE
CAPTURED 03/16/01

0205425982

083000593
1219 1220 001 03/16/01
082164931

000005537

DO NOT WRITE IN THESE SPACES

ENCLOSURE
CARE PHARMACY

CDVolid/CIMSKey
20010316185101

Acc. #

00000000998508

SerialNum

0005537386

Amount

\$14,077.10

IssueDate

03/09/2001

Bank #

0071000013

Sequence

0014446491

Location

CD

PaidDate

03/16/2001

Printed using Accord Application

Period Covered

2/2 - 23/01

Page 1 of 1

EXHIBIT

67

Continued

PHARMACY NO: 05-5554

AdvancePCS REMITTANCE ADVICE

FOR CLAIMS RECEIVED BY: 02/23/2001

CYCLE: 0104

PAGE NO: 2

P	RX	DATE	FILED	U.A.C.	NO. COPIES CLAIMED	NO. COPIES ADJUSTED	DISBURSEMENT FEE PAID	PERCENT FEE	SOURCE FEE	SALES TAX CLAIMED	SALES TAX ADJUSTMENT	PATIENT PAID	AMOUNT PAID	AUTH NUMBER	PRIME CODE	MISC.
Y	00020666	1/31/2001		213.58	210.00	24.63	2.50	2.50				10.00	177.87	331772	.03	
Y	0002067	1/31/2001		753.98	750.00	3.98	2.50	2.50				10.00	669.06	331791	.03	
Y	0002068	1/31/2001		237.98	234.00	3.98	2.50	2.50				10.00	187.32	331815	.03	
Y	0002074	2/01/2001		543.98	540.00	3.98	2.50	2.50				10.00	506.89	624185	.03	
Y	0002075	2/01/2001		102.68	98.70	3.98	2.50	2.50				10.00	73.58	283597	.03	
Y	0002076	2/01/2001		66.98	63.00	3.98	2.50	2.50				10.00	55.50	624680	.03	
Y	0002077	2/01/2001		123.98	120.00	3.98	2.50	2.50				10.00	82.81	286176	.03	
Y	0002078	2/01/2001		75.98	72.00	3.98	2.50	2.50				10.00	69.50	624995	.03	
Y	0002079	2/01/2001		190.58	186.60	3.98	2.50	2.50				10.00	179.10	625051	.03	
Y	0002080	2/01/2001		233.98	230.00	3.98	2.50	2.50				10.00	194.35	286267	.03	
Y	0002141	2/02/2001		75.98	72.00	3.98	2.50	2.50				10.00	69.50	914438	.03	
Y	0002142	2/02/2001		133.98	130.00	3.98	2.50	2.50				10.00	100.26	238277	.03	
Y	0002143	2/02/2001		69.98	66.00	3.98	2.50	2.50				10.00	58.50	238617	.03	
Y	0002144	2/02/2001		94.98	91.00	3.98	2.50	2.50				10.00	83.34	074801	.03	
Y	0002145	2/02/2001		246.98	243.00	3.98	2.50	2.50				10.00	179.08	539642	.03	
Y	0002146	2/02/2001		243.98	240.00	3.98	2.50	2.50				10.00	156.63	540177	.03	
Y	0002147	2/02/2001		475.58	471.60	3.98	2.50	2.50				10.00	351.82	229559	.03	
Y	0002148	2/02/2001		543.98	540.00	3.98	2.50	2.50				10.00	506.89	705710	.03	
Y	0002768	2/17/2001		9.38	5.40	3.98	2.50	2.50				10.00	5.03	794870	.03	
Y	0002959	2/20/2001		73.58	69.60	3.98	2.50	2.50				10.00	57.45	106137	.03	
Y	0002970	2/20/2001		163.98	160.00	3.98	2.50	2.50				10.00	133.55	573847	.03	
Y	0002971	2/20/2001		213.98	210.00	3.98	2.50	2.50				10.00	202.05	573968	.03	
Y	0003079	2/22/2001		73.58	69.60	3.98	2.50	2.50				10.00	61.45	891494	.03	
Y	0003080	2/22/2001		163.98	160.00	3.98	2.50	2.50				10.00	137.55	145512	.03	
Y	0003081	2/22/2001		219.98	216.00	3.98	2.50	2.50				10.00	201.21	188562	.03	
Y	0003082	2/22/2001		183.98	180.00	3.98	2.50	2.50				10.00	149.25	145611	.03	
Y	0003093	2/22/2001		102.68	98.70	3.98	2.50	2.50				10.00	77.58	697681	.03	
Y	0003094	2/22/2001		73.58	69.60	3.98	2.50	2.50				10.00	57.45	190837	.03	
Y	0003095	2/22/2001		219.98	216.00	3.98	2.50	2.50				10.00	197.21	495280	.03	
Y	0003096	2/22/2001		483.98	480.00	3.98	2.50	2.50				10.00	435.25	149826	.03	
Y	0003097	2/22/2001		102.68	98.70	3.98	2.50	2.50				10.00	73.58	551354	.03	
Y	0003097	2/22/2001		258.98	255.00	3.98	2.50	2.50				10.00	235.49	173298	.03	
*****RECAP INFORMATION*****																
1 CLAIMS AT .030 = .03 SUBMITTED USING ECS 800 NUMBER.																
75 CLAIMS AT .030 = 2.25 SUBMITTED USING LEASE LINE.																
*****TOTAL SVC FEE .00*****																
*****TOTAL CLAIMS 14,204.79*****																
*****NEW OR CHANGED DISPENSING FEES*****																
*****MEMBERSHIP ADJUSTMENTS*****																
*****AMT. TRANSFER FASTINUS*****																
*****CHECK AMOUNT*****																
*****MEMBER FEE BAL*****																
*****CONTINUED*****																

AdvancePCS

P.O. BOX 52115, PHOENIX, ARIZONA 85072-2115

REV 02/01 (01/10/04)

PHARMACY NO: 05-5554

AdvancePCS REMITTANCE ADVICE

FOR CLAIMS RECEIVED BY: 02/23/2001

CYCLE: 0104

PAGE NO: 4

P N	RX NUMBER	PAT/CARDHOLDER LAST FIRST	DATE FILLED	U & C SUBMIT	MR. COST CLAIMED	MR. COST ADJUSTMT	DISPENSING FEE PAID	PERF FEE	SVC FEE	SALES TAX CLAIMED	SALES TAX ADJUSTMT	PATENT PAID	AMOUNT PAID	AUTH NUMBER	TRNS PRF	REL CO.	MISC.
NEW OR CHANGED DISPENSING FEES																	
	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE	CARR FEE
	3965 3.60	3967 2.00	3968 4.05	3969 3.60	3970 3.60	3971 3.60	3972 3.60	3973 3.60	3974 3.60	3975 3.60	3976 3.60	3977 3.60	3978 3.60	3979 3.60	3980 3.60	3981 3.60	3982 3.60
	3975 4.05	3976 3.20	3977 4.05	3978 2.00	3979 3.60	3980 3.60	3981 3.60	3982 3.60	3983 3.60	3984 3.60	3985 3.60	3986 3.60	3987 3.60	3988 3.60	3989 3.60	3990 3.60	3991 3.60
	3981 3.60	3983 4.05	3984 4.05	3985 3.60	3986 3.60	3987 3.60	3988 3.60	3989 3.60	3990 3.60	3991 3.60	3992 3.60	3993 3.60	3994 3.60	3995 3.60	3996 3.60	3997 3.60	3998 3.60
	3988 3.60	3989 3.60	3990 3.60	3991 3.60	3992 3.60	3993 3.60	3994 3.60	3995 3.60	3996 3.60	3997 3.60	3998 3.60	3999 3.60	4000 3.60	4001 3.60	4002 3.60	4003 3.60	4004 3.60
	6795 3.90																
SUMMARY TOTALS																	
	NO. PHARMACY CLAIMS	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID
	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76
	14,204.79	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10
	127.69																
	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10	14,077.10
	AMT. TRANSMIT PATIENTS																
	14,077.10																
	CHECK AMOUNT																
	14,077.10																
	MEMBER FEE BAL.																

AdvancePCS

P.O. BOX 52415, PHOENIX, ARIZONA 85072-2415

EXHIBIT

68-4

REV 02/01 (01STPRAR)

08/30/2001 11:01 AM

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER



AdvancePCS

AdvancePCS
P.O. Box 52115
Phoenix, Arizona 85072-2115

DATE: 04-06-2001

CHECK NO: 5580695

73-426
839

VOID AFTER 180 DAYS

Bank One, NA 0710
Chicago, IL
Payable Through Republic Bank
Shelbyville, Kentucky

AMOUNT

*****58,040.69

PAY EXACTLY *****58,040 DOLLARS AND 69 CENTS

Pay to the
Order of05-5554
CARE PHARMACY
14150 BROOKHURST ST
GARDEN GROVE, CA 928434657

⑈05580695⑈ ⑈083904262⑈

⑈0005804069⑈

083000593 12200066141
1757 1758 001 04/12/01 1000 N TEMPLE LA, CA 92
04/12/01 0000000000 CA00

3200092032 37334770

08-005-0190 1F02
4/12/01LAW ONE
IMAGE
CAPTURED 04/12/01

0200917358

APR 11 2001

4515-29
1220-0001

0932 59091

CDVoid/CIMSKey

20010413080501

Acc. #

00000000998508

SerialNum

0005580695

Amount

\$58,040.69

IssueDate

04/06/2001

Bank #

0071000013

Sequence

0010539861

Location

CD

PaidDate

04/12/2001

ted using Accord Application

Count 12

EXHIBIT

L29

Period Covered
3/10-23/01

Page 1 of 1

PHARMACY NO: 05-5554

AdvancePCS REMITTANCE ADVICE

FOR CLAIMS RECEIVED BY: 03/23/2001

CYCLE: 0106

PAGE NO: 1

PH	RX	NUMBER	PAT/CA/NUMBER	NAME	DATE	U & C	NO. COST	NO. COST	EXPENSE	PER	SALE	SALE TAX	PATIENT	AMOUNT	AUTH	TOTALS	MEMB
			LAST	FIRST	FILED	SUBMIT	CLAIMED	ADJUST	FEE PAID	FEE	FEE	ADJUST	PAID	PAID	NUMBER	PER	REC
Y	0000796				3/06/2001	493.98	480.00	39.79	2.50	2.50			20.00	422.71	259324	.03	
Y	0000797				2/11/2001	73.58	69.60	5.02	2.50	2.50			20.00	47.08	531216	.03	
Y	0000797				3/06/2001	73.58	69.60	5.02	2.50	2.50			20.00	47.08	616768	.03	
Y	0000936				2/23/2001	483.96	480.00	3.96	2.50	2.50			7.00	438.25	704289	.03	
Y	0000937				2/11/2001	88.98	85.00	26.83	2.50	2.50			7.00	59.67	531216	.03	
Y	0000940				2/25/2001	237.96	234.00	24.45	2.50	2.50			205.05	229887	229887	.03	
Y	0000941				2/11/2001	183.98	180.00	15.10	2.50	2.50			7.00	160.40	533061	.03	
Y	0000941				2/23/2001	183.98	180.00	15.10	2.50	2.50			7.00	160.40	955918	.03	
Y	0000942				2/11/2001	51.98	48.00	15.10	2.50	2.50			7.00	43.50	300142	.03	
Y	0000942				2/27/2001	51.98	48.00	15.10	2.50	2.50			7.00	43.50	481837	.03	
Y	0000943				2/11/2001	97.58	93.60	2.76	2.50	2.50			7.00	86.34	532849	.03	
Y	0000943				2/27/2001	97.58	93.60	2.76	2.50	2.50			7.00	86.34	481747	.03	
Y	0000944				2/11/2001	71.98	68.00	15.97	2.50	2.50			7.00	47.53	555010	.03	
Y	0000944				2/27/2001	71.98	68.00	15.97	2.50	2.50			7.00	47.53	230314	.03	
Y	0000945				2/16/2001	243.98	240.00	75.87	2.50	2.50			7.00	159.63	533426	.03	
Y	0001176				2/12/2001	85.88	81.90	20.60	2.50	2.50			7.00	56.80	300552	.03	
Y	0001176				2/26/2001	85.88	81.90	20.60	2.50	2.50			7.00	56.80	260190	.03	
Y	0001180				2/12/2001	64.78	60.60	10.58	2.50	2.50			7.00	45.72	533619	.03	
Y	0001180				2/28/2001	64.78	60.60	10.58	2.50	2.50			7.00	45.72	613478	.03	
Y	0001181				2/12/2001	83.98	80.00	20.11	2.50	2.50			7.00	55.39	533656	.03	
Y	0001181				2/24/2001	83.98	80.00	20.11	2.50	2.50			7.00	55.39	229252	.03	
Y	0001183				2/24/2001	561.98	558.00	43.61	2.50	2.50			7.00	509.89	480180	.03	
Y	0001184				2/12/2001	102.68	98.70	17.62	2.50	2.50			7.00	76.58	533699	.03	
Y	0001184				2/24/2001	102.68	98.70	17.62	2.50	2.50			7.00	76.58	582912	.03	
Y	0001320				2/23/2001	233.98	230.00	41.12	2.50	2.50			15.00	176.38	309056	.03	
Y	0001322				2/11/2001	159.98	156.00	25.38	2.50	2.50			15.00	118.12	533115	.03	
Y	0001322				3/06/2001	159.98	156.00	25.38	2.50	2.50			15.00	118.12	760037	.03	
Y	0001431				2/28/2001	138.98	135.00	4.16	2.50	2.50			15.00	118.34	617830	.03	
Y	0001431				2/12/2001	561.98	558.00	46.57	2.50	2.50			15.00	498.93	481555	.03	
Y	0001431				2/28/2001	102.68	98.70	18.08	2.50	2.50			15.00	68.12	368546	.03	
Y	0001433				2/21/2001	102.68	98.70	18.08	2.50	2.50			15.00	68.12	300696	.03	
Y	0001434				2/12/2001	83.98	80.00	20.45	2.50	2.50			15.00	47.05	773447	.03	
Y	0001434				2/21/2001	83.98	80.00	20.45	2.50	2.50			15.00	47.05	019689	.03	
Y	0001435				2/12/2001	51.98	48.00	20.45	2.50	2.50			15.00	35.50	532805	.03	
Y	0001435				2/21/2001	51.98	48.00	20.45	2.50	2.50			15.00	35.50	533862	.03	
Y	0001436				2/12/2001	57.98	54.00	11.31	2.50	2.50			15.00	30.19	532731	.03	
Y	0001436				2/21/2001	57.98	54.00	11.31	2.50	2.50			15.00	30.19	534027	.03	
Y	0001497				2/28/2001	573.98	570.00	103.88	2.50	2.50			20.00	448.62	534152	.03	
Y	0001498				2/23/2001	219.98	216.00	12.47	2.50	2.50			20.00	186.03	534176	.03	
Y	0001659				2/23/2001	83.98	80.00	2.24	2.50	2.50			7.00	75.26	963279	.03	
Y	0001670				2/23/2001	85.98	82.00	3.23	2.50	2.50			7.00	74.27	003216	.03	
Y	0001671				2/23/2001	45.98	46.00	1.28	2.50	2.50			7.00	40.22	488840	.03	
Y	0001672				2/23/2001	134.98	131.00	23.34	2.50	2.50			7.00	113.16	239718	.03	
Y	0001707				2/23/2001	66.98	63.00	3.98	2.50	2.50			7.00	58.50	551348	.03	
CONTINUED																	
SUMMARY TOTALS																	

AdvancePCS

P.O. BOX 52115, PHOENIX, ARIZONA 85072-2115

EXHIBIT

70-1

REV 4/2011 (CUSTOMER)

PHARMACY NO.: 05-5554

AdvancePCS REMITTANCE ADVISE

FOR CLAIMS RECEIVED BY: 03/23/2001

CYCLE: 0106

PAGE NO.: 3

P N	FX NUMBER	DATE	U & C	ING. COST	ING. COST ADJUSTMENT	DISPENSING FEE PAID	PERF FEE	SRVC FEE	SALES TAX CLAIMED	SALES TAX ADJUSTMENT	PATIENT PAID	AMOUNT PAID	AUTH. NUMBER	TRNS. FROM CO.	REL. CO.	MSC.
	0002554	2/10/2001	1119.98	1116.00	87.22	2.50	2.50				6.00	1,025.28	261213	.03		
	0002553	2/10/2001	134.98	131.00	13.34	2.50	2.50				3.00	117.16	440559	.03		
	0002553	2/21/2001	134.98	131.00	13.34	2.50	2.50				3.00	117.16	301925	.03		
	0002556	2/10/2001	165.98	162.00	25.04	2.50	2.50				6.00	133.46	261335	.03		
	0002557	2/10/2001	97.58	93.60	2.76	2.50	2.50				6.00	87.34	261384	.03		
	0002558	2/22/2001	97.58	93.60	2.76	2.50	2.50				6.00	87.34	302441	.03		
	0002558	2/10/2001	133.98	130.00	22.24	2.50	2.50				6.00	104.26	261450	.03		
	0002561	2/10/2001	561.98	558.00	43.61	2.50	2.50				7.00	509.89	283342	.03		
	0002562	2/10/2001	201.38	197.40	35.24	2.50	2.50				7.00	157.66	266302	.03		
	0002562	2/21/2001	903.98	900.00	140.07	2.50	2.50				7.00	755.43	283426	.03		
	0002563	2/10/2001	903.98	870.00	110.07	2.50	2.50				7.00	755.43	535856	.03		
	0002564	2/10/2001	1023.98	1020.00	173.73	2.50	2.50				7.00	841.77	283520	.03		
	0002565	2/21/2001	1023.98	1020.00	173.73	2.50	2.50				7.00	841.77	368863	.03		
	0002566	2/10/2001	903.98	900.00	91.77	2.50	2.50				7.00	803.73	283538	.03		
	0002567	2/10/2001	273.98	270.00	33.83	2.50	2.50				7.00	231.67	266489	.03		
	0002568	2/10/2001	315.98	312.00	56.74	2.50	2.50				7.00	256.76	283566	.03		
	0002569	2/10/2001	1263.98	1260.00	272.44	2.50	2.50				7.00	275.16	283610	.03		
	0002594	2/12/2001	363.98	360.00	127.12	2.50	2.50				3.00	232.38	956014	.03		
	0002594	2/25/2001	363.98	360.00	127.12	2.50	2.50				3.00	232.38	531613	.03		
	0002595	2/22/2001	903.98	900.00	75.50	2.50	2.50				3.00	824.00	487942	.03		
	0002595	2/22/2001	903.98	900.00	75.50	2.50	2.50				3.00	824.00	536097	.03		
	0002596	2/12/2001	1023.98	1020.00	173.73	2.50	2.50				6.00	842.77	352690	.03		
	0002597	2/12/2001	1023.98	1020.00	173.73	2.50	2.50				6.00	842.77	536059	.03		
	0002597	2/22/2001	1383.98	1380.00	168.96	2.50	2.50				6.00	1,207.54	302022	.03		
	0002598	2/12/2001	1353.98	1350.00	210.11	2.50	2.50				6.00	1,136.39	455073	.03		
	0002598	2/22/2001	1308.98	1305.00	165.11	2.50	2.50				6.00	1,136.39	714051	.03		
	0002599	2/12/2001	1119.98	1116.00	87.22	2.50	2.50				6.00	1,025.28	677520	.03		
	0002734	2/16/2001	843.98	840.00	223.25	2.50	2.50				6.00	613.25	184046	.03		
	0002735	2/16/2001	257.98	254.00	23.59	2.50	2.50				6.00	230.91	184102	.03		
	0002736	2/16/2001	159.32	156.00	7.20	2.50	2.50				6.00	145.30	184414	.03		
	0002737	2/16/2001	1119.98	1116.00	87.22	2.50	2.50				6.00	1,025.28	184453	.03		
	0002739	2/16/2001	543.98	540.00	45.30	2.50	2.50				6.00	494.20	184517	.03		
	0002740	2/16/2001	831.98	828.00	101.38	2.50	2.50				6.00	723.12	184537	.03		
	0002741	2/16/2001	873.98	870.00	127.12	2.50	2.50				6.00	756.43	184557	.03		
	0002938	2/20/2001	783.98	780.00	37.56	2.50	2.50				15.00	729.94	039459	.03		
	0002939	2/20/2001	843.98	840.00	185.41	2.50	2.50				15.00	642.09	245429	.03		
	0002940	2/20/2001	315.98	312.00	52.24	2.50	2.50				15.00	247.26	254873	.03		
	0002941	2/20/2001	199.98	196.00	19.64	2.50	2.50				15.00	164.46	039525	.03		
	0002942	2/20/2001	183.98	180.00	15.28	2.50	2.50				15.00	148.22	039775	.03		
SUMMARY TOTALS																

AdvancePCS

P.O. BOX 52115, PHOENIX, ARIZONA 85072-2115

REV 0201 (01/01/00)

12

PHARMACY NO.: 05-5554

AdvancePCS REMITTANCE ADVISE

FOR CLAIMS RECEIVED BY: 03/23/2001

CYCLE: 0106

PAGE NO.: 4

TX NUMBER	PAT/CHARGE/CLERK NAME	DATE	U & C	ING. COST	ING. COST ADJUSTMENT	DISBURSE	PERF	SWC	SALES TAX	SALES TAX ADJUSTMENT	PATIENT PAID	AMOUNT PAID	AUTH NUMBER	TMS REL	MISC.
0002944		2/20/2001	723.98	720.00	64.19	2.50					7.00	651.31	255208	.03	
0002945		2/20/2001	1107.98	1104.00	140.74	2.50					15.00	950.76	255242	.03	
0002946		2/20/2001	819.98	816.00	142.87	2.50					15.00	660.63	255271	.03	
0002947		2/20/2001	85.98	82.00	3.68	2.50					15.00	65.82	039647	.03	
0002972		2/21/2001	159.32	156.00	8.05	2.50					15.00	135.45	255889	.03	
0002973		2/21/2001	573.98	570.00	103.88	2.50					15.00	453.62	256205	.03	
0002974		2/21/2001	97.58	93.60	3.29	2.50					15.00	77.81	256301	.03	
0002975		2/21/2001	69.98	66.00		2.50					15.00	53.50	256331	.03	
0002976		2/21/2001	243.98	240.00	84.74	2.50					15.00	150.76	256371	.03	
0002977		2/21/2001	561.98	558.00	46.57	2.50					15.00	498.93	256465	.03	
0002978		2/21/2001	213.98	210.00	55.18	2.50					15.00	202.32	256535	.03	
0002979		2/21/2001	213.98	210.00	24.63	2.50					15.00	172.87	256557	.03	
0002980		2/21/2001	134.98	131.00	13.34	2.50					15.00	115.16	040022	.03	
0002981		2/21/2001	843.98	840.00	223.25	2.50					10.00	609.25	256678	.03	
0002982		2/21/2001	153.98	150.00	11.88	2.50					10.00	124.62	040057	.03	
0002983		2/21/2001	963.98	960.00	74.50	2.50					10.00	878.00	256744	.03	
0002984		2/21/2001	1383.98	1380.00	160.51	2.50					10.00	1,203.59	256811	.03	
0002985		2/21/2001	843.98	840.00	181.61	2.50					10.00	650.87	040081	.03	
0002986		2/21/2001	873.98	870.00	110.07	2.50					10.00	752.43	040087	.03	
0003176		2/23/2001	273.98	270.00	33.83	2.50					7.00	231.67	237340	.03	
0003177		2/23/2001	183.98	180.00	53.85	2.50					7.00	121.65	239553	.03	
0003178		2/23/2001	267.98	264.00	29.59	2.50					7.00	229.91	598449	.03	
0003179		2/23/2001	573.98	570.00	101.18	2.50					7.00	464.32	708016	.03	
0003180		2/23/2001	105.98	102.00	35.82	2.50					7.00	61.58	600422	.03	
0003181		2/23/2001	561.98	558.00	43.61	2.50					7.00	509.69	600877	.03	
0003182		2/23/2001	66.48	62.50	8.18	2.50					7.00	49.82	244537	.03	
0003183		2/23/2001	1308.98	1305.00	165.11	2.50					7.00	1,135.39	244891	.03	
0003184		2/23/2001	159.98	156.00	25.37	2.50					7.00	126.13	245111	.03	
0003192		2/23/2001	134.98	131.00	13.34	2.50					7.00	123.16	268232	.03	
0003193		2/23/2001	561.98	558.00	43.65	2.50					7.00	509.69	274718	.03	
0004104		3/10/2001	73.58	69.60	4.65	2.50					6.00	61.45	386603	.03	
0004105		3/10/2001	219.98	216.00	11.29	2.50					6.00	201.21	682323	.03	
0004106		3/10/2001	88.98	85.00	15.54	2.50					6.00	61.96	673379	.03	
0004107		3/10/2001	483.98	480.00	37.25	2.50					6.00	439.25	387166	.03	
0004108		3/10/2001	201.38	197.40	35.24	2.50					6.00	158.66	690363	.03	
0004506		3/15/2001	643.98	640.00	75.79	2.50					6.00	560.71	098740	.03	
0004507		3/15/2001	237.98	234.00	16.07	2.50					6.00	214.43	726794	.03	
0004508		3/15/2001	133.98	130.00	22.24	2.50					6.00	104.26	989723	.03	
0004509		3/15/2001	453.98	450.00	45.88	2.50					6.00	400.62	526009	.03	
0004510		3/15/2001	123.98	120.00	17.93	2.50					6.00	78.57	991796	.03	
0004524		3/15/2001	73.58	69.60	4.65	2.50					10.00	57.45	743597	.03	
0004525		3/15/2001	133.98	130.00	22.24	2.50					10.00	100.26	534133	.03	
0004526		3/15/2001	219.98	216.00	11.29	2.50					10.00	197.21	744130	.03	
0004527		3/15/2001	453.98	450.00	45.88	2.50					10.00	396.62	235910	.03	
SUMMARY TOTALS	NO. PHARMACY CLAIMS	NUMBER OF CLAIMS PAID	NUMBER OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	AMOUNT OF CLAIMS PAID	CHECK AMOUNT	MEMBER FILE BAL.	

AdvancePCS

P.O. BOX 52115, PHOENIX, ARIZONA 85072-2115

REV 02/11 (CUSTOMER)

704

PAGE NO.:

PHARMACY NO.: 05-5554

FOR CLAIMS RECEIVED BY: 03/23/2001

CYCLE: 0106

PAGE NO.:

AdvancePC®

P.O. BOX 52115, PHOENIX, ARIZONA 85072-2115

REV 02/01 (C15)STORARY

70-45

PHARMACY NO: 05-5554

AdvancePCS REMITTANCE ADVICE

FOR CLAIMS RECEIVED BY: 03/23/2001

CYCLE: 0106

PAGE NO:

6

P N	RX NUMBER	PHARMACEUTICAL LAST	DATE FILED	U & C SUBMIT	INS. COAT CLAIMED	INS. COAT ADJUST	PREP/30 FEE PAID	PREP FEE 1	STIC FEE	SALES TAX CLAIMED	SALES TAX ADJUST	PATIENT PAID	AMOUNT PAID	AUTH NUMBER	TRANS PART	REL. CO.	WISC.
NEW OR CHANGED DISPENSING FEES																	
CARR	FEE	CARR	FEE	CARR	FEE	CARR	FEE	CARR	FEE	CARR	FEE	CARR	FEE	CARR	FEE	CARR	FEE
X704	2.50	X705	2.50	X706	2.50	X707	2.50	X708	2.50	X709	2.50	X710	2.50	X711	2.50	X712	2.50
X710	2.50	X711	2.50	X712	2.50	X713	2.50	X714	2.50	X715	2.50	X716	2.50	X717	2.50	X718	2.50
X716	2.50	X717	2.50	X718	2.50	X719	2.50	X720	2.50	X721	2.50	X722	2.50	X723	2.50	X724	2.50
X722	2.50	X723	2.50	X724	2.50	X725	2.50	X726	2.50	X727	2.50	X728	2.50	X729	2.50	X730	2.50
X728	2.50	X729	2.50	X730	2.50	X731	2.50	X732	2.50	X733	2.50	X734	2.50	X735	2.50	X736	2.50
X734	2.50	X735	2.50	X736	2.50	X737	2.50	X738	2.50	X739	2.50	X740	2.50	X741	2.50	X742	2.50
X740	2.50	X741	2.50	X742	2.50	X743	2.50	X744	2.50	X745	2.50	X746	2.50	X747	2.50	X748	2.50
X746	2.50	X747	2.50	X748	2.50	X749	2.50	X750	2.50	X751	2.50	X752	2.50	X753	2.50	X754	2.50
X752	2.50	X753	2.50	X754	2.50	X755	2.50	X756	2.50	X757	2.50	X758	2.50	X759	2.50	X760	2.50
X758	2.50	X759	2.50	X760	2.50	X761	2.50	X762	2.50	X763	2.50	X764	2.50	X765	2.50	X766	2.50
X764	2.50	X765	2.50	X766	2.50	X767	2.50	X768	2.50	X769	2.50	X770	2.50	X771	2.50	X772	2.50
X770	2.50	X771	2.50	X772	2.50	X773	2.50	X774	2.50	X775	2.50	X776	2.50	X777	2.50	X778	2.50
X776	2.50	X777	2.50	X778	2.50	X779	2.50	X780	2.50	X781	2.50	X782	2.50	X783	2.50	X784	2.50
X782	2.50	X783	2.50	X784	2.50	X785	2.50	X786	2.50	X787	2.50	X788	2.50	X789	2.50	X790	2.50
X788	2.50	X789	2.50	X790	2.50	X791	2.50	X792	2.50	X793	2.50	X794	2.50	X795	2.50	X796	2.50
X794	2.50	X795	2.50	X796	2.50	X797	2.50	X798	2.50	X799	2.50	X800	2.50	X801	2.50	X802	2.50
X800	2.50	X801	2.50	X802	2.50	X803	2.50	X804	2.50	X805	2.50	X806	2.50	X807	2.50	X808	2.50
X806	2.50	X807	2.50	X808	2.50	X809	2.50	X810	2.50	X811	2.50	X812	2.50	X813	2.50	X814	2.50
X812	2.50	X813	2.50	X814	2.50	X815	2.50	X816	2.50	X817	2.50	X818	2.50	X819	2.50	X820	2.50
X818	2.50	X819	2.50	X820	2.50	X821	2.50	X822	2.50	X823	2.50	X824	2.50	X825	2.50	X826	2.50
X824	2.50	X825	2.50	X826	2.50	X827	2.50	X828	2.50	X829	2.50	X830	2.50	X831	2.50	X832	2.50
X828	2.50	X829	2.50	X830	2.50	X831	2.50	X832	2.50	X833	2.50	X834	2.50	X835	2.50	X836	2.50
X834	2.50	X835	2.50	X836	2.50	X837	2.50	X838	2.50	X839	2.50	X840	2.50	X841	2.50	X842	2.50
X838	2.50	X839	2.50	X840	2.50	X841	2.50	X842	2.50	X843	2.50	X844	2.50	X845	2.50	X846	2.50
X842	2.50	X843	2.50	X844	2.50	X845	2.50	X846	2.50	X847	2.50	X848	2.50	X849	2.50	X850	2.50
X846	2.50	X847	2.50	X848	2.50	X849	2.50	X850	2.50	X851	2.50	X852	2.50	X853	2.50	X854	2.50
X850	2.50	X851	2.50	X852	2.50	X853	2.50	X854	2.50	X855	2.50	X856	2.50	X857	2.50	X858	2.50
X854	2.50	X855	2.50	X856	2.50	X857	2.50	X858	2.50	X859	2.50	X860	2.50	X861	2.50	X862	2.50
X858	2.50	X859	2.50	X860	2.50	X861	2.50	X862	2.50	X863	2.50	X864	2.50	X865	2.50	X866	2.50
X862	2.50	X863	2.50	X864	2.50	X865	2.50	X866	2.50	X867	2.50	X868	2.50	X869	2.50	X870	2.50
X866	2.50	X867	2.50	X868	2.50	X869	2.50	X870	2.50	X871	2.50	X872	2.50	X873	2.50	X874	2.50
X870	2.50	X871	2.50	X872	2.50	X873	2.50	X874	2.50	X875	2.50	X876	2.50	X877	2.50	X878	2.50
X874	2.50	X875	2.50	X876	2.50	X877	2.50	X878	2.50	X879	2.50	X880	2.50	X881	2.50	X882	2.50
X878	2.50	X879	2.50	X880	2.50	X881	2.50	X882	2.50	X883	2.50	X884	2.50	X885	2.50	X886	2.50
X882	2.50	X883	2.50	X884	2.50	X885	2.50	X886	2.50	X887	2.50	X888	2.50	X889	2.50	X890	2.50
X886	2.50	X887	2.50	X888	2.50	X889	2.50	X890	2.50	X891	2.50	X892	2.50	X893	2.50	X894	2.50
X890	2.50	X891	2.50	X892	2.50	X893	2.50	X894	2.50	X895	2.50	X896	2.50	X897	2.50	X898	2.50
X894	2.50	X895	2.50	X896	2.50	X897	2.50	X898	2.50	X899	2.50	X900	2.50	X901	2.50	X902	2.50
X898	2.50	X899	2.50	X900	2.50	X901	2.50	X902	2.50	X903	2.50	X904	2.50	X905	2.50	X906	2.50
X902	2.50	X903	2.50	X904	2.50	X905	2.50	X906	2.50	X907	2.50	X908	2.50	X909	2.50	X910	2.50
X906	2.50	X907	2.50	X908	2.50	X909	2.50	X910	2.50	X911	2.50	X912	2.50	X913	2.50	X914	2.50
X910	2.50	X911	2.50	X912	2.50	X913	2.50	X914	2.50	X915	2.50	X916	2.50	X917	2.50	X918	2.50
X914	2.50	X915	2.50	X916	2.50	X917	2.50	X918	2.50	X919	2.50	X920	2.50	X921	2.50	X922	2.50
X918	2.50	X919	2.50	X920	2.50	X921	2.50	X922	2.50	X923	2.50	X924	2.50	X925	2.50	X926	2.50
X922	2.50	X923	2.50	X924	2.50	X925	2.50	X926	2.50	X927	2.50	X928	2.50	X929	2.50	X930	2.50
X926	2.50	X927	2.50	X928	2.50	X929	2.50	X930	2.50	X931	2.50	X932	2.50	X933	2.50	X934	2.50
X930	2.50	X931	2.50	X932	2.50	X933	2.50	X934	2.50	X935	2.50	X936	2.50	X937	2.50	X938	2.50
X934	2.50	X935	2.50	X936	2.50	X937	2.50	X938	2.50	X939	2.50	X940	2.50	X941	2.50	X942	2.50
X938	2.50	X939	2.50	X940	2.50	X941	2.50	X942	2.50	X943	2.50	X944	2.50	X945	2.50	X946	2.50
X942	2.50	X943	2.50	X944	2.50	X945	2.50	X946	2.50	X947	2.50	X948	2.50	X949	2.50	X950	2.50
X946	2.50	X947	2.50	X948	2.50	X949	2.50	X950	2.50	X951	2.50	X952	2.50	X953	2.50	X954	2.50
X950	2.50	X951	2.50	X952	2.50	X953	2.50	X954	2.50	X955	2.50	X956	2.50	X957	2.50	X958	2.50
X954	2.50	X955	2.50	X956	2.50	X957	2.50	X958	2.50	X959	2.50	X960	2.50	X961	2.50	X962	2.50
X958	2.50	X959	2.50	X960	2.50	X961	2.50	X962	2.50	X963	2.50	X964	2.50	X965	2.50	X966	2.50
X962	2.50	X963	2.50	X964	2.50	X965	2.50	X966	2.50	X967	2.50	X968	2.50	X969	2.50	X970	2.50
X966	2.50	X967	2.50	X968	2.50	X969	2.50	X970	2.50	X971	2.50	X972	2.50	X973	2.50	X974	2.50
X970	2.50	X971	2.50	X972	2.50	X973	2.50	X974	2.50	X975	2.50	X976	2.50	X977	2.50	X978	2.50
X974	2.50	X975	2.50	X976	2.50	X977	2.50	X978	2.50	X979	2.50	X980	2.50	X981	2.50	X982	2.50
X978	2.50	X979	2.50	X980	2.50	X981	2.50	X982	2.50	X983	2.50	X984	2.50	X985	2.50	X986	2.50
X982	2.50	X983	2.50	X984	2.50	X985	2.50	X986	2.50	X987	2.50	X988	2.50	X989	2.50	X990	2.50
X986	2.50	X987	2.50	X988	2.50	X989	2.50	X990	2.50	X991	2.50	X992	2.50	X993	2.50	X994	2.50
X990	2.50	X991	2.50	X992	2.50	X993	2.50	X994	2.50	X995	2.50	X996	2.50	X997	2.50	X998	2.50
X994	2.50	X995	2.50	X996	2.50	X997	2.50	X998	2.50	X999	2.50	X1000	2.50	X1001	2.50	X1002	2.50
X998	2.50	X999	2.50	X1000	2.50	X1001	2.50	X1002	2.50	X1003	2.50	X1004	2.50	X1005	2.50	X1006	2.50
X1002	2.50	X1003	2.50	X1004	2.50	X1005	2.50	X1006	2.50	X1007	2.50	X1008	2.50	X1009	2.50	X1010	2.50
X1006	2.50	X1007	2.50	X1008	2.50	X1009	2.50	X1010	2.50	X1011	2.50	X1012	2.50	X1013	2.50	X1014	2.50
X1010	2.50	X1011	2.50	X1012	2.50	X1013	2.50	X1014	2.50	X101							

APPENDIX G

X C/O NEW

C/O PREVIOUS



PCS Health Systems

0570172

Membership Enrollment Form

The undersigned hereby enrolls as a Provider in one or more of PCS' networks. The attached Provider Agreement, all Schedules thereto, and the PCS documents (as defined in the Provider Agreement) each as in force from time to time constitute Provider's agreement with PCS Health Systems, Inc.

IN WITNESS WHEREOF, the parties hereto have caused this Provider Agreement to be executed by their respective officers or representatives duly authorized so to do effective as of the date PCS Health Systems, Inc. accepts this Provider Agreement. By signing below, the undersigned Provider represents and warrants to PCS Health Systems, Inc. that (i) it has read the PCS Provider Agreement, the Schedules thereto and the other PCS documents and (ii) agrees to be bound by such agreements (as such agreements may be amended from time to time in accordance with the terms of the Provider Agreement) without any modifications, deletions or additions to any of such agreements.

Provider

NCPDP: 05.5554.8

Pharmacy Name: CARE PHARMACY

(Formerly called NABP)

Pharmacy Doing Business As (DBA): (CARE PHARMACY) MY-HUONG HOANG

Address: 14150 BROOKHURST ST

Mailing Address: 14150 BROOKHURST ST

GARDEN GROVE, CA. 92843

GARDEN GROVE, CA. 92843

Telephone: (714) 534-3437

Fax Number: (714) 539-7257

Email Address: N/A

Provider will be telecommunicating via: (Please check one of the below.)

☒ Provider's Computer (Direct dial) ☐ Provider's Leased Telephone Line ☐ RECAP® Point-of-Sale Terminal

Software Vendor Name: CARE Company

By: My-Huong Hoang

Date Signed: 8/22/00

(Signature of Owner/Corporate Officer/Authorized Agent)

MY-HUONG HOANG / Owner, P.C.

(Printed Name and Title)

For PCS Use Only

PCS Health Systems, Inc.

Date of Acceptance by PCS:

By: Doug Stephens

DOUG STEPHENS V.P.

(Printed Name and Title)

RECEIVED

SEP 01 2000

PROVIDER ENROLLMENT

EXHIBIT

189

PCS HEALTH SYSTEMS INC.

PAGE 3 OF 3

Attention: Amy Clow

No alterations to this form of Network Enrollment Form shall be binding on either party unless initiated by duly authorized representatives of Provider and AdvancePCS.

AdvancePCS
Network Enrollment Form
For the Service Benefit Plan (SBP) Provider Network

The undersigned hereby enrolls as a Provider in the network indicated by signing below. Provider agrees to accept the Plan Sponsor AWP Discount and Plan Sponsor Dispensing Fee and other unique requirements, if any, as indicated below.

Service Benefit Plan (SBP) Provider Network:

- For the purposes of Section 4.3.2 of the AdvancePCS Provider Agreement:

The applicable Plan Sponsor AWP Discount shall be 14%, and the applicable Plan Sponsor Dispensing Fee shall be \$1.03.

IN WITNESS WHEREOF, the parties hereto have caused this Network Enrollment Form to be executed by their respective officers or representatives duly authorized so to do. By signing below, Provider agrees to become a participant in the Service Benefit Plan (SBP) Provider Network effective as of the date AdvancePCS accepts this Network Enrollment Form. Further, Provider understands and agrees that all the terms and conditions established in the AdvancePCS Provider Agreement, except to the extent inconsistent with the terms and conditions of this Network Enrollment Form, shall apply to Pharmacy Services provided hereunder and participation in this Plan Sponsor Network. Capitalized terms not defined herein shall have the meanings used in the AdvancePCS Provider Agreement.

Provider Info: _____

CARE PHARMACY

055554.8

Provider Name

NCPDP

HUONG LE

Name of Owner Authorized Agent (if not owner)

[Signature]

owner

Provider Signature

[Signature]

DOUG STEPHENS V.P.

Title

Date of Signature _____ AdvancePCS



attention Amy Clow

[Signature]

RECEIVED

APR 12 2001

NUMBER ENROLLMENT

GOVERNMENT
EXHIBIT
192